96/47

IMMIGRATION AND NATURALIZATION SERVICE OVERSIGHT

HEARINGS

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION, REFUGEES,
AND INTERNATIONAL LAW

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

SECOND SESSION

ON

IMMIGRATION AND NATURALIZATION SERVICE

FEBRUARY 27, 28, MARCH 12, 1980

Serial No. 47

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IMMIGRATION AND NATURALIZATION SERVICE OVERSIGHT

WEDNESDAY, FEBRUARY 27, 1980

House of Representatives,
Subcommittee on Immigration, Refugees, and
International Law of the Committee on the Judiciary,
Washington, D.C.

The subcommittee met at 1 p.m. in room 2237 of the Rayburn House Office Building, Hon. Elizabeth Holtzman (chairwoman of the subcommittee) presiding.

Representatives present: Holtzman, Hall, Fish, Butler, and Lungren.

Staff present: Garnar J. Cline, Arthur P. Endres, Jr., James J. Schweitzer, counsel; Peter Regis, legislative assistant; Alexander B. Cook, associate counsel.

Ms. Holtzman. The subcommittee will come to order.

This is the first of a series of oversight hearings the subcommittee intends to hold on the Immigration and Naturalization Service in preparation for the Department of Justice authorization for fiscal year 1981.

Last year, during the authorization process, this subcommittee made several concrete legislative proposals, subsequently enacted into law, which were designed to improve the efficiency of the Service, stem fraud and corruption, upgrade service to the public and INS enforcement capability, and remove some of the tarnish from the public image of the agency.

Specifically, the subcommittee amendments did the following:

Created an Office of Special Investigator within the INS with agencywide responsibility for auditing INS operations and conducting internal investigations.

Required the Attorney General to obtain an independent, comprehensive management analysis of the operations of INS "for the purpose of making such operations efficient and cost effective."

Authorized an additional $7.1 million to automate INS record systems, approximately $2.1 million of which was to be used to eliminate a 6-month backlog in nonimmigrant arrival/departure records, keep the system current through fiscal year 1980, and design a new fully automated system. The remaining $5 million was to be made available to fully automate INS district offices to allow for prompt service to the public.

Although the authorization legislation, Public Law 96-132, was signed into law by the President on November 30, 1979, since that date we have observed little positive forward movement by the agency on these initiatives. If anything, the problems we identified and sought to resolve last year have multiplied. Backlogs are still lengthy and commonplace; files are still routinely lost; phones still go unanswered. Enforcement problems are staggering, while resources continue to dwindle. Unbelievably, for example, INS has the same number of investigators today that it did 20 years ago. Morale among employees is at an all-time low and, as a recent series in the New York Times graphically demonstrated, fraud, corruption and even brutality have surfaced within branches of the Service throughout the United States.

The most tragic aspect of this litany is that it was recited at our hearings last year and, despite the efforts of this subcommittee, improvements appear to be negligible. Let me review what has and has not been done on the provisions enacted last year.

The subcommittee felt that it took an important step toward ending fraud, corruption, and mismanagement by creating the Office of the Special Investigator with broad powers to inquire into all aspects of operations and administration. As of today, the Special Investigator is not on board, although the Attorney General has advised me that an individual to fill the office has been selected.

The management analysis directed by our legislation is hardly off the ground. It is my understanding that the management team was only organized 3 weeks ago. From what we have heard, this analysis will require some 2 years to complete. Will we be forced to mark time for 2 whole years before we can find out what ails INS and what remedies are necessary to restore it to some semblance of good health? Certainly, the present state of affairs will not permit us the luxury of another 2-year delay before some positive action is taken.

Our hopes for bringing 20th century computer technology to bear on the numerous problems of the Service have also not materialized. The computer plan is hopelessly enmeshed in a bureaucratic maze which at this point appears to have halted significant progress. I realize that another congressional subcommittee has been involved in the delay of this program, but I nonetheless feel that the Service could have reacted more energetically in seeking to resolve this impasse.

As far as I can determine, the only progress on the subcommittee's initiatives that has been made since last year's authorization has been the reduction in the processing backlog of the nonimmigrant arrival and departure control system, which I understand is current with a 30-day processing time for arrivals and a 60-day period for departures. However, the study for the design of a new system, mandated by the Congress last year, has not even begun.

I recognize that much of the blame for failing to carry out the congressional mandates lies with the Department of Justice and OMB, rather than the Service. Unfortunately, this is not a new phenomenon; as I have said on numerous occasions, INS is the stepchild of the Department. As such, it gets little support either from within Justice or from OMB during the budget process.

This subcommittee, try as it might, cannot save INS on its own. We must have the support, cooperation, and understanding of the executive branch. In my view, this will necessitate a different, and more realistic attitude on the part of the Department of Justice and OMB in assessing and responding to the needs of the Service.

It seems to me incredible, for example, that despite the fact that last November we had a law enacted requiring the appointment of a special investigator, and despite all the allegations of brutality and mismanagement that have continued to surface, and despite the fact that this administration is on record as being pledged to improving management, we still don't have that special investigator on board. I can't fathom this kind of delay and bureaucratic foot dragging.

Our witness today is David Crosland, the Acting Commissioner of the Immigration and Naturalization Service.

Mr. Crosland has done a commendable job in filling the position of Acting Commissioner. It has been a pleasure to work with him, and it is a pleasure to welcome him to the committee.

TESTIMONY OF DAVID CROSLAND, ACTING COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, ACCOMPANIED BY PAUL SAENZ, ASSOCIATE DEPUTY COMMISSIONER FOR PLANNING, EVALUATION AND BUDGETING, AND THOMAS PERRELLI, DIRECTOR OF THE BUDGET

Mr. CROSLAND. Thank you very much.

With that introduction, maybe I should say that reports of my demise have been greatly exaggerated. It is a pleasure to be here. I'd like to introduce the people that are with me today.

On my left is Paul Saenz, who is the head of planning, evaluation, and budgeting. And on my right is Tom Perrelli, who is the director of the budget.

I also have with me the management group from INS, and I would like to introduce them.

Neil Leary is, of course, in charge of congressional liaison, on the far right there. Then we have Bob Kane, who is the head of operations support; Jim Kennedy, who is the Associate Commissioner from Management; Chuck Sava, Associate Commissioner for Enforcement; Carl Wack, Associate Commissioner for Examinations. I'd like to also introduce Mr. Connery, Walter Connery, who is the head of our Office of Professional Responsibility within INS. Next to him is John Kratkze, who is the head of the team that's been sent in by the President's Council on Management Improvement.

Rather than reading a rather lengthy statement, I would, with the committee's approval, like to discuss with you some of the aspects of what I have in my statement.

Ms. HOLTZMAN. Without objection, the entire text of your statement will be incorporated into the record at this point.

[The complete statement follows:]

Statement by

David Crosland
Acting Commissioner

Immigration and Naturalization Service

Before

Subcommittee on Immigration,
Refugees and International Law

February 27, 1980

Good morning. I am pleased to appear here before you this morning, Madam Chairwoman, to bring you up to date on the problems and the needs of the Immigration and Naturalization Service. I am accompanied today by Associate Deputy Commissioner Paul Saenz and Budget Officer Tom Parelli. All members of the INS Management Group are also in attendance.

I'd like to begin by addressing concerns about mismanagement and corruption in the INS which have been a favorite topic in some of the news media recently.

It has been apparent to me that many of the management problems have stemmed from a lack of clear authority and accountability of managers for their programs. Since I became Acting Commissioner on October 1 I have attempted to improve accountability of managers by re-establishing line authority through the INS Regions to the District offices and Border Patrol Sectors.

The Management Group concept, which was not functioning properly, is now working well. Key managers in the Central Office meet regularly to discuss openly their own programs and how they relate to others. Communications both within the Central Office and between Washington and field offices have been improved considerably.

The successful completion of the first phase of the Iranian project demonstrates that given a clear understanding of what is expected of each manager, the Service can respond in an efficient and effective manner in discharging its responsibilities.

We have recently undertaken an exercise in the Central Office which I believe has helped all of us. We instituted a hiring freeze, which was in effect from November through January. Each program manager and the supervisors reporting to him had to explain their programs and justify before the Management Group the need for filling the vacancies. This resulted in some excess positions not being filled, while others were relocated to areas where need was greater.

For example, the Commissioner's office had nearly a dozen Special Assistants. I have reduced this to one; the Deputy's office staff was trimmed in half. Of course, we have functioned without a Deputy since last October.

This same system of accountability is being brought to bear against the problem of corruption, which has received so much publicity. We are trying to instill a sense of responsibility in all managers and supervisors for all that occurs within their area of jurisdiction. We are also asking them to identify potential problem areas -- areas of possible corruption or temptation — and to take special steps to guard against misconduct in those areas.

We are placing a great deal of emphasis on preventive measures, rather than only responding to misconduct after it occurs. We have hired Walter Connery to head the internal affairs unit, called the Office of Professional Responsibility. Mr. Connery is an experienced and respected officer from the New York Police Department, where he specialized in internal investigations.

I have directed that 30 investigators be detailed to OPR to resolve cases which have been pending for months, or even a year or more. We are also opening regional OPR offices to assist with the internal policing of INS and to enable us to respond more quickly when problems occur outside of Washington.

While I'm on this subject, I would like to comment on the New York Times articles, which gave the impression that corruption and the violation of civil rights are a way of life in the INS. Our analysis of the incidents related in the Times indicated 51 separate allegations of misconduct. These allegations, incidentally, covered a 15 year period, although ~~the Times~~ gave the impression that all were recent events.

All the identifiable incidents had already been investigated by INS, with 14 persons cleared of any wrong doing; five employees were terminated or left before diciplinary action could be taken against them; 25 were disciplined through suspension or admonishment, four were indicted and five cases are still pending for action at the Civil Rights Division at the Justice Department.

I would like now to turn my discussion to the major operating divisions within INS, starting first with the Border Patrol. Last fiscal year the Border Patrol apprehended 889,000 undocumented aliens, a small increase over the previous year. Nearly 60 percent of these apprehensions occured in two volatile stretches of the border between the U.S. and Mexico. An approximate 30 mile section immediately south of San Diego, which we call the Chula Vista Sector and a similar section extending from El Paso, Texas. Apprehensions in Chula Vista totaled 338,000 and at El Paso the number was 150,000.

While some people talk of the 2,000 mile border between the United States and Mexico, it is evident to me that we really need not be concerned about that entire 2,000 miles. There are only a few miles, certainly well under 10 per cent of the border, that account for most of the illegal crossings. It is in these areas that we must continue to concentrate our resources, and to improve our capabilities.

Both as General Counsel and as Acting Commissioner I have accompanied the Border Patrol in their operations. I have come unannounced upon Border Patrol agents making apprehensions and questioning aliens. I have been impressed with the professional manner in which these officers conduct their work. Never have I seen any signs that the aliens who have been arrested are afraid of the agents — a fear that would almost certainly exist if the stories about beatings and brutality were to occur on a regular basis.

My impression of the Border Patrol, arrived at over the past three years, is one of a dedicated, hard-working group who are somewhat frustrated and concerned about what they perceive as lack of support on the part of those of us here in Washington.

Given the difficult circumstances under which they operate, I believe the officers of the Border Patrol perform admirably. They have become extremely adept at making the most of limited resources.

One example of this occured recently in Southern California. Because of concern over the number of aliens that were being smuggled north into Los Angeles along a major interstate highway when the Border Patrol San Clemente checkpoint was not in operation, a plan was devised to apprehend many of these aliens and alien smugglers.

On a Sunday evening last month the checkpoint operations were suspended for about an hour and a half -- time enough for word to reach the border that the checkpoint was not in operation. Then the checkpoint was quickly reinstated with additional Border Patrol officers manning the lanes, examining each car closely and stopping those that they had reason to believe contained persons being smuggled.

Within a very short time 518 smuggled aliens were found, and 35 smugglers were arrested. In addition, 22 cars were found abandoned by their drivers near the checkpoint, and many of them had aliens concealed in the vehicles. Such an operation will become part of the standard procedure at that checkpoint in the future.

On the subject of smuggling, we believe the new law giving INS authority to confiscate vehicles used to smuggle aliens is in need of some modification. However, we are taking advantage of it. Two weeks ago in Chula Vista I saw more than 700 confiscated vehicles, including motor homes, vans, camper trucks and cars. Many were nearly new, usable vehicles, which we plan to incorporate into our own operations.

Next I would like to cover the Investigations Division. There seems to be a generally held idea that INS investigators are the same as Border Patrol officers, except that they operate in cities instead of at the border. That is not correct. Approximately half of the time of investigators is spent on investigative casework, in such areas as fraud, citizenship application, seeking information for private bills, and visa irregularities. Combatting smuggling of aliens occupies another large part of investigative time and resources.

The operation which receives the bulk of attention because it is most easily measured, is the function we call area control -- the apprehension of undocumented aliens, primarily in places of employment.

These apprehensions last year totaled just over 147,000, about the same as the previous year.

An area in which a dramatic increase in workload has occured without commensurate increase in staff is inspections. International air passenger traffic to the United States has increased by more than 40 per cent over the last four years. At some airports in particular, growth in international air traffic has outpaced the national average by a considerable margin. At Miami the increase over the past four years has been 70 per cent; at San Francisco, 90 per cent; at Los Angeles, 100 per cent; and at Atlanta, 160 per cent. Last year more than 274 million persons were inspected at ports of entry and nearly one million inadmissible applicants were refused entry -- 13 per cent more than 1978.

In addition, inspectors during non-peak times at airports and other ports of entry handled adjudication of 800,000 alien applications and petitions, a 20 per cent increase over the previous year.

Despite such innovations as one-stop inspections coordinated with the Customs Service and the expansion of pre-clearance, increases in the number of persons that must be processed by INS inspectors are continuing to outrun our capabilities. This results in increasing delays to the public and inconvenience to both airlines and international travelers.

Naturalization is another area in which we are hard-pressed to satisfy the growing demand for service. Since the end of the last fiscal year pending naturalization applications have grown to more than 100,000 and we project more than a quarter million applications this year. In addition, we expect more than 50,000 Indochinese refugees to apply for citizenship when they become eligible, beginning this spring. Because of the benefits which citizenship grants in allowing persons to bring in relatives from abroad we expect the refugees to apply promptly and to seek rapid processing of their applications.

We also need some legislative changes to assist us in serving the public better. We estimate more than a one-third increase in naturalization productivity could be accomplished with no increase in personnel if the changes proposed in H.R. 5087 and S. 1763 and 1773 were effected. These would remove some archaic and unneeded, but time-consuming requirements for naturalization and result in prompter certification of citizenship for persons born abroad of U.S. citizens.

In the Adjudications Division, receipts of petitions and applications have been at record-high levels and are now approaching two million a year. The increase since fiscal year 1977 is nearly 40 per cent, primarily in relative visa petitions and applications for permanent residence for Indochinese refugees and for Western hemisphere aliens.

The use of task forces in offices where backlogs are greatest and continued increases in sending petitions to inspection stations for adjudication have helped us to keep pace with the increases. More than half the adjudications are now performed by INS inspectors at ports of entry.

In the Detention and Deportation division, we have need for holding facilities in Miami and improvement in facilities in New York. We require holding space for an average of 120 aliens per day in Miami, and are seeking this in facilities that will be more convenient to INS than current local detention space now in use. Last year more than 7,500 hours of overtime was expended in transporting undocumented aliens to holding areas.

The Bureau of Prisons has offered an interim solution in Miami which provides INS space for 200 persons, which can be used for five months. Other alternatives are being examined, one of which is an abandoned missile site within 14 miles of the Miami District Office.

Improvements are also being made in the New York detention facility, which was in a state of decay at the time we began using it in 1975. These include painting and renovating of interior and exteriors, purchase of dining room equipment, establishing a visiting area where direct contact between visitors and detainees is permitted, purchase of recreation equipment, adding carpeting and curtains, installing new infirmaries and improving privacy in the toilet area.

We are also developing new written standards in 17 different areas of detention policy and practice, which will be applied nationwide.

I should add that we intend to move into new detention facilities on Varick Street in New York during the next fiscal year.

Another problem in New York, which many of you are familiar with, involves providing service to the public. On occasions, I have tried to call the listed number for the New York Immigration Office and have received no reply. Telephone surveys have indicated that as many as 60 per cent of the calls to the New York office are not completed.

To resolve this we are installing a new telephone system in New York, which will be in place early in March, and we are providing the people to answer the phones. In many places we are installing automated systems, which provide callers recorded information while they are waiting for someone to answer their specific questions. In other offices we have recorded tapes which provide detailed information on specific immigration subjects, such as how to replace a lost document, or bring in a close relative.

We recognize there are many problems in New York in addition to our inability to answer telephones. In the last two months I have sent two separate teams to New York to look into the problems and recommend ways to resolve them. We found a major problem with records misplaced or files accumulated in operating divisions. Last year we discovered that one unit had not opened mail for six months.

Next week I am sending a team of records specialists to New York under the direction of INS Associate Commissioner Charles Sava who has broad management experience. This team will have the responsibility and the authority to do what is necessary to straighten out the records problem in the District Office.

The problems of INS are well known. I say that confidently, because a recent count revealed 43 different audits being conducted of the

Service. These included audits by main Justice, GAO and from within INS.

One of these, which we believe holds great promise, is being done by the President's Management Improvement Council under the direction of Mr. John Kratzke. Mr. Kratzke is conducting a management analysis, the first stage of which is reviewing the automation plans made to date and recommending future steps to achieve automation.

The Government Information and Individual Rights Subcommittee has frozen INS funds for purchase of additional automation equipment pending completion of a long-range plan for automating the agency.

The automated system we will install will be one which takes into consideration the overall needs of INS and has the growth potential for future expansion. We are working closely with Chairman Preyer to resolve his concerns and to develop a plan that will benefit both INS and the public over the long-term.

Mr. Kratzke has been meeting with key managers at INS over the past few weeks, and we are making an all-out effort to straighten out agency records and files as part of our preparation for automated systems.

At the same time, he and INS managers are working more closely with the Justice Management Division on ways to improve procedures in

Personnel, Procurement and other management functions. As an example, I have requested JMD to approve all INS contracts over $10,000.

I believe the problems at INS are solvable. They have been allowed to grow in the dark, while little attention was sought or given to this agency. I believe some of the problems result from INS failure in the past to ask for adequate resources, and from failure to document adequately the need for requested funds and personnel.

Major changes in the law in 1965 resulted in considerably more paperwork for the agency, and it was not and has not been equipped to cope with it, either through systems and procedures or through automation. At the same time, immigration to this country has been increasing substantially, and we now find ourselves in a hole from which it will not be easy to extricate ourselves.

We are going through a painful period of self-examination as well as examination from outside INS. This is important and necessary. I believe, too, that with the re-establishment of proper lines of authority leading to responsible management and supervision we can accomplish much on our own.

I have instituted increased communication with field offices and all employees. We are looking at our problems from as many perspectives as is possible. A vehicle task force, for instance, is trying to make some difficult decisions so that it can recommend to me the best course of action to take in replacing our worn out fleet with the most economic and efficient vehicles in the future. We are currently using horse patrols in one remote area of Arizona desert along the Mexican border. In other areas we use helicopters, small planes and motorcycles, as well as 4-wheel drive vehicles.

This, like most management problems, requires planning and good supervision to reach the right course of action.

I am committed to making changes in the INS that will bring the agency into the 1980's in both a management and a service sense. I look forward to your assistance and cooperation in doing so.

Thank you. I will be pleased to answer your questions.

Mr. **Crosland**. I'd like to address today some concerns about mismanagement and corruption that you've touched on.

It seems to me that a number of our problems within INS come from a lack of clear authority and accountability of the people responsible for programs within INS. That's not only the Associate Commissioners, but persons in the field.

I have attempted since I've been Acting Commissioner in October, to improve the accountability and reestablish some line of authority, clearer lines of authority. We have tried to make the management group concept work, and I think we have experienced some success in this regard.

We meet regularly to discuss problems that plague the service, and to try to bring the collective wisdom and experience of the program managers to bear on those problems. We have tried to increase the amount of communication between the central office and field operations, down through the regions to the districts and the centers. We have, I think, successfully completed the first phase of the Iranian student project through the reestablishment of a line authority situation.

As you know, some 47,000 students reported in a period of a little over 1 month, with very short notice. Of those, some 7,000 were found to be out of status, with roughly another 3,000 somewhat in limbo. We are now moving into phase 2 of that.

The central office has been criticized in the field in the past for being top-heavy, and we have addressed that problem, or attempted to address that problem—we'll continue to do so—by putting a freeze on all hirings. That lasts from November through January. We still have a requirement that any workload excess position that becomes vacant in the central office get the approval of the Management Committee and the Commissioner prior to filling it. Therefore, we need to justify all vacancies.

In the Commissioner's office, I've reduced the staff from something in the neighborhood of a dozen special assistants to one. I found that as a person I could not—I had a limited number of hours in the day. My time was better spent working with and talking with the people who had responsibility for the running of the agency rather than synthesizing it through special assistants.

I've cut the staff of the Deputy Commissioner in half.

The system of accountability or the concept of accountability should be brought to bear on problems of corruption as well. We are trying to instill a sense of responsibility of our managers for what goes on in their particular bailiwick, whether it's the sector chief or someone in charge of records or district director or regional commissioner or associate commissioner. We are asking all of our people in the field to identify areas of corruption, write them down so that they will be—these are our managers—so that they will be much more aware of the potential for corruption and more vigilant in guarding against corruption occurring under their supervision.

We've emphasized preventive measures, in effect, to stop this conduct.

I mentioned a while ago that Mr. Connery is the new head of OPR. He has, prior to coming with INS, had a distinguished career on the New York City Police Department. He at one time prosecuted police officers before commissioners within the New York Police Department. I expect him to do a great deal in shaping up our efforts at internal policing.

I have detailed 30 investigators temporarily, in addition to the 14 that are already assigned to INS in OPR, to work on the backlogs of complaints of misconduct that have built up over a period of time. We are sending a task force up to New York on Monday, which will be housed in the New York office to deal with those.

We're opening an office in San Diego very shortly, and we expect to have offices in each region, not necessarily in the regional office, but somewhere in each region, with a team of people to work on, in a very expedited way, complaints of misconduct.

I'd like to respond to the—just very briefly, to the New York Times articles. The articles which you mentioned covered a period of some 15 years. I don't think that that was clear through the reading of the articles. There was—as best as we could figure, there were some 51 employees who were identified in the articles.

I'd like you to know that investigations were completed prior to the writing of the articles as to all 51 employees. Fourteen of those people were cleared; 5 were terminated or quit; and 15 were disciplined through suspensions, admonishments, or forced terminations. We've got five cases in the Civil Rights Division awaiting action, and another four or five people were indicted arising out of those articles.

I'd like to turn now to a discussion of some of the major operating divisions within the Service, and begin with the Border Patrol.

Last year 889,000 apprehensions were made by the Border Patrol. That was up slightly over the previous year. Sixty percent of the apprehensions were made in two locations; at Chula Vista with 338,000 apprehensions, and in El Paso with 150,000.

Now, although we hear talk that we've got a 2,000-mile border to police, in fact we've probably got about 10 percent of that where most of the apprehensions occur, where most of the people come in. We're trying to place our resources in such a way that we can meet the flow of illegal immigration through the highest points of entry rather than spreading them around in places where they could not be used as well.

There are special situations. In Arizona, where I was visiting a couple of weeks ago, we have instituted the horse patrol, mounted horse patrol. That's the first time in, I guess, around 20 years that we have had patrolmen on horseback. The wilderness area has been declared in a desert area adjacent to the border, and there is no waiver for the use of vehicles by law enforcement personnel. This is something of an experiment, and we will continue to look at it.

I went out on one of the horses with the patrol, and it seems to be working fairly well. I'd like to say that just from my own observations, I have been very impressed with the professionalism that's shown by the Border Patrol. I had occasions as general counsel to go out with the Patrol in El Paso. Since becoming Acting Commissioner I've gone out twice—three times, twice in Chula Vista and once down in Lukeville. The way in which they conduct their job is one, I think, that we could all be proud of, from my observations.

One may argue that their behavior might be on the improvement if the Acting Commissioner or General Counsel was present, but I was there in circumstances where they were unaware that I was there.

Also, I did not see any signs of fear among the aliens, which I think is significant. If reports of widespread brutality and misconduct actually occur, I would think that the aliens who were apprehended would show some signs of fear, and I didn't see any.

In summary, I think that they are basically a group of dedicated, hardworking people. And they are frustrated by what they perceive as a lack of support in Washington. They make the most of their very limited resources.

In San Clemente, the checkpoint there, recently they stopped the operation at the checkpoint for about 1½ hours, and then opened it back up. The time in which the checkpoint was down was sufficiently long for the word to go down to the border. Some 518 smuggled aliens were apprehended at the checkpoint or after they had abandoned vehicles. There were some 22 cars found abandoned near the checkpoint, some of them with aliens locked in the trunks. Other aliens were apprehended in the Marine Corps base, trying to get around the checkpoint.

We've been using the vehicle confiscation law fairly effectively in the western region. I was out in Chula Vista and saw roughly 700 vehicles which had been confiscated by the Border Patrol. These are not junkers, for the most part. They range from campers to trucks and vans, fairly new cars. One Jaguar was seized. And I suppose if I had to compare some of their cars to some of what we have, I would think that we were in the junkers and the smugglers were in the better cars.

We will probably use some of those cars in INS operations by taking cars that have high mileage on them out of operation and using those vehicles.

Turning now to investigations. I think it ought to be stressed that investigators don't do the same thing as the Border Patrol. It's not really a valid argument to say that persons who are on the border can apprehend a number of people; therefore, people in the interior who apprehend a lesser number of persons are doing a less effective job.

About half of the work of investigators is devoted to casework involving citizenship, applications, information about private bills, and visa irregularities. Also, we have investigators who are combating smuggling, which is a major operation of the investigators.

Airport control is an effective operation. We totaled about 147,000 persons apprehended last year. It was about the same the preceding year.

I think it's interesting to look at the kinds of apprehensions, the pattern of apprehensions by city. A few years ago there were very few apprehensions of Mexican nationals in the industrialized areas of the North. Last year apprehensions in New York City alone were 1,900 for Mexican nationals and about 12,000, I believe, for Chicago. Obviously, the largest number were apprehended in Los Angeles.

In the area of inspection, our international air traffic has increased 40 percent in 4 years. Miami has had the greatest increase of all. Arriving passengers have increased from 1 million in 1970 to 2.5 million last year. The percentage of aliens who arrived last year in Miami increased 40 percent over what they were—the arrivals in 1978.

The INS has attempted to use innovative measures such as one-stop and citizen bypass in some places, and that's helped to speed up the processing. But with an increased number of persons arriving, we will continue to have more and more delays.

I was out in San Francisco a couple of weeks ago, and I understand that out there the arrivals are something like 65 percent of the total air traffic is alien traffic.

In the area of naturalization, over 100,000 pending applications for citizenship are on file now. We expect over a quarter million applications this year. More than 50,000 Indochinese refugees are eligible for citizenship starting this spring under the new refugee law.

Now, we can, through the help of Congress, make some progress on naturalization. I've testified both here on the efficiency packages, and on the Senate side. And our estimate is that we might decrease workload some 30 percent if we would eliminate the two-citizen requirement for persons becoming naturalized. We've got to——

Ms. HOLTZMAN. Excuse me, Mr. Crosland. Don't you mean the two-witness requirement?

Mr. CROSLAND. Yes; I'm sorry. What did I say?

Ms. HOLTZMAN. Two citizen.

Mr. CROSLAND. I'm sorry. Two citizen witness requirement on citizenship. We could have a one-third increase in productivity, with no more personnel changes, if we could have this legislation enacted.

On adjudications, the receipts of applications and petitions reached 2 million a year, up 40 percent since 1977. The increase is mainly from relative visa petitions and applications for permanent residence by Indochinese refugees. We can expect a corresponding increase with every person who is naturalized because they will wish to bring in their relatives.

Half of the adjudications now are done by inspectors during nonpeak hours. Over 800,000 were done last year by inspectors. We've got an experiment out in Chula Vista with inspectors there in a place away from the general public, and it seems to be working quite well.

I'd like now to turn to the area of detention and deportation.

We have experienced large numbers of Haitians coming to Miami. I think we've had something like 3,000 who came to Miami during the period from July to the end of December.

We are working out or have worked out an agreement with the Bureau of Prisons so that those persons who arrive in Miami, those Haitians—and we expect that they will continue to arrive there—may be processed in a central location in Miami rather than spreading them out in six detention facilities over 100 miles. And we will at the same time process them for INS functions, have Public Health Service inspect them for health functions, and have them in a centralized location so the voluntary agencies can assist in their temporary location while they're awaiting hearings.

We figure that in Miami we require detention facilities for 120 aliens per day. Last year in the spread-out situation that we had with aliens—Haitians being detained in a 100-mile radius—we spent 7,500 hours in overtime just transporting back and forth to detention areas.

The Bureau of Prisons, as I mentioned, will provide 200 spaces in Miami for a period of 5 months. We are looking at an abandoned missile sight within 14 miles of Miami, and we hope to get money for that.

We have also made some improvements in our New York facility, including painting and renovation of the facility. We will be moving in about a year or so to Baruch Street, where we will have a new office and detention facility.

In New York, I mentioned to you once before at the select committee hearings, that we had done a survey of the telephone answering in New York, and some 60 percent of the calls are either not answered or people are put on hold through an inadequate phone system. We are installing a new telephone system in New York next week. In other places we've installed automatic telephone-answering systems which play tapes providing certain kinds of information. Unfortunately, in spite of the fact that we might provide certain kinds of information as to what kind of forms people should fill out, most people call to find out what's happened to what they've already filled out and sent in: and that brings us to the problem of records.

We in New York have some 50,000 records that are misplaced out of 2 million. That's sort of like looking for a needle in a haystack. We've got seven people in lost files looking for lost records.

Ms. Holtzman. Would you give those figures again.

Mr. Crosland. Fifty thousand files out of 2 million files. And we've got seven people looking for the 50,000 files.

Now, the problem is one that has not developed overnight. There's been a steady deterioration over a period of years; particular operating units seem to have hoarded files in an effort to know where they are, resulting in nobody else knowing where they are.

I have sent up two teams to New York in the last 3 months. One went up a couple of weeks before Christmas, and a records team went up a couple of weeks ago. Beginning Tuesday I've got a detail of people, skilled supervisors who are knowledgeable about records, who are going to go into New York and stay there as long as is necessary to supervise the people that are there, in getting the records in some sort of shape. We cannot operate if we don't know where the files are.

Chuck Sava, who is the head of enforcement but has a broad management experience, will head up that team. I think it's important that we send an associate commissioner so that everybody in New York gets the message that we are serious about straightening out the problems of lost files and records.

We've gotten a lot of help from outside INS, although I think that the cure for the patient is going to come largely from within. We have 43 different audits being conducted on INS at the present time. Some of these are self-imposed. Others are caused by GAO being requested to conduct an audit after someone in Congress reads something in the paper about INS, or Justice Management Division asking that some type of audit be done.

I've met with the various principals at main Justice, Kevin Rooney and Michael Shaheen, who is head of OPR, and Alan Parker, and discussed the problem of audits and coordination. We are trying to consolidate some of these audits so we don't have people running over each other, duplicating efforts, in effect.

I mentioned to you earlier than John Kratzke has come to us with the President's Management Improvement Council. He comes from the Interstate Commerce Commission. Now, his starting point is on automation. When I took over as Acting Commissioner, I found a situation where there was a hold and still is a hold by the prior committee on our purchasing hardware for automation. There were fairly strong feelings between people, some people in our offices and people in the prior committee, as to what was appropriate.

I don't really care what kind of system we get. I want to get the kind of system which works and works well. I'd like to do it sooner rather than later. I've asked Mr. Kratzke to work with our people, GAO investigators who have been looking at the systems in INS, and the prior committee people, to try to come up with a system or a series of interim measures to automate our entire process. That might mean using part of the money that we have for automation for temporary workers to work on files. It might mean using part of it to work on hiring a contractor with services who knows various systems. We could put in a temporary system until we could get a long-range program underway.

The concern of the prior committee is basically that they do not want us to put in a system on which we don't have any potential for growth in a period of 4 or 5 years. And I certainly don't want to be labeled with having put in a $25 million system that's no good after 5 years. As I say, I don't have any feeling as to which is the best system, but I want to utilize the expertise of people in Justice Management Division, the Congress, and the President's Management Improvement Council, to find out and put one into place.

We have been working more closely with the Justice Management Division since October. One of my concerns was our contracting process. I have asked the Justice Management Division to come in and to look at our procedures. And we have agreed that they will sign off on all contracts over $10,000. That's not just in the central office, but nationwide. This gets their involvement in a much more detailed way. We expect a written report as to how we can improve our procurement processes by the end of March with the Justice Management Division. I've also asked them to look at the personnel system and how we can improve that; what portions of the personnel system slow us down in hiring, where authority for hiring should be, what is self-imposed and could be eliminated, what's put on us by the Office of Personnel Management, and so forth.

Our problems are problems that have developed over a period of years. They have grown in the dark, so to speak. And I think in some cases in the past, probably in the late 1930's, INS has failed to request adequate systems for people for equipment. Sometimes we have not asked for what we need probably in the best way, so it's really understandable in a logical way. I think this is a product of a lack of adequate communication not only with the Justice Management Division, but also with OMB. I'm trying to set out to improve that communication.

There were major changes in the law after 1965, which resulted in more paperwork and systems and the need for more systems and people. Immigration in the United States has been increasing and will continue to increase, evidently.

We are undergoing a period of painful self-examination from the outside. I think that that is important that we do so, and it's necessary.

I believe that with the reestablishment of the proper lines of authority leading to more responsible management and supervision, we can accomplish a great deal on our own. Increased communication with the field offices and employees, including visits such as I have made to the field should help us in this regard.

I have set up a task force on vehicles, including people from the field, so that we can discuss what our real needs in the field are. They vary from place to place.

I have hired Roger Brandemuehl, who is the first head of the Border Patrol who comes directly from the field in over 20 years. I hope that this will help us with the perception in the field that people in the central office have not had the kind of on-the-line experience that's been needed over a period of time. We want to get more input from them.

As to management and budget decisions, it's a complex method. What we present and what we get may have no relationship to what we originally presented. It takes a lot of planning and a lot of participation from the people who are actually charged with discharging the law in sectors and in district offices.

I have set up a system so that in the future when we have planning for spring planning or budgeting, we will involve the people from the field rather than having everything done in the central office.

Last year there was very little planning participation from people in the regions. We are committed to making changes in INS which will bring the agency into modern times. We look forward to your assistance and cooperation in doing so.

I will be happy to try to answer any questions.

Ms. **Holtzman**. Thank you very much, Mr. Crosland. I'm worried about the unit you're sending up to New York to find the lost files. I don't want the unit to get lost in the process.

Mr. **Crosland**. We tried to advertise for Attila the Hun.

I think they can take care of themselves.

Ms. **Holtzman**. I'd like to address first the issue of anticorruption efforts within the Immigration Service. I take it you deal with this problem through the Office of Professional Responsibility; is that correct?

Mr. **Crosland**. That's correct. That's one in INS. And there's one in main Justice.

Ms. **Holtzman**. How many people in the INS office?

Mr. **Crosland**. I believe we've got 14 on board presently. Fourteen on board presently within INS.

Ms. **Holtzman**. And did you ask for any additional funds for this unit?

Mr. **Crosland**. We are asking for additional funds. We are preparing a supplemental, which will go through the whole process. We are asking for—we detailed, I detailed in 30 investigators from other responsibilities to work on a backlog. But what I envision is an increase in staff of some additional investigators so that we will decentralize the efforts of investigations to four offices within regions, not necessarily regional offices.

Ms. **Holtzman**. You anticipate bringing in 30 additional people on a full-time basis?

Mr. **Crosland**. Well, if we get the money, we would do that, yes.

Ms. HOLTZMAN. How much additional money is requested for this unit in the fiscal year 1981 budget?

Mr. CROSLAND. We have asked for $1,900,000.

Ms. HOLTZMAN. Extra?

Mr. CROSLAND. Yes.

Ms. HOLTZMAN. In the fiscal year 1981 budget.

Mr. CROSLAND. As an amendment.

Mr. SAENZ. If I may respond. What we have done, when Mr. Crosland brought Mr. Connery on, Mr. Connery determined he needed additional personnel. We have prepared a supplemental to our 1980 budget and an amendment to the 1981 request that would bring on as soon as possible an additional 28 people to his office, and ask for an additional $1.5 million, in order to accomplish the objectives that Mr. Crosland has outlined.

Ms. HOLTZMAN. Have OMB and Department of Justice approved request?

Mr. CROSLAND. We haven't gone that far yet. We just started the process.

Ms. HOLTZMAN. What is the backlog of complaints? How many complaints do you have?

Mr. CROSLAND. We have 169 complaints. Of those, 10 are over 1 year old, and 29 are over 6 months old. That's unacceptable.

Ms. HOLTZMAN. What rate of efficiency are you trying to achieve?

Mr. CROSLAND. I think if we have situations such as complaints of brutality, a violation of civil rights, we ought to be able to respond immediately.

Ms. HOLTZMAN. Do these complaints include civil rights or brutality complaints as well as fraud complaints?

Mr. CROSLAND. Yes.

Ms. HOLTZMAN. Did you break them down in terms of how many are complaints of corruption and how many are complaints of brutality?

Mr. CROSLAND. Let's see. Twenty-three are civil rights complaints, which would include brutality. Serious misconduct complaints might also include brutality; 70 complaints there.

I believe we had 68 brutality complaints last year, 6 of which were sustained. Corruption, we've got 38 total. We've got 131 within OPR, and other agencies there are 38. Making a total of 169.

Ms. HOLTZMAN. What training do the people get in the Office of Professional Responsibility?

Mr. CROSLAND. Our investigators are usually recruited from the existing number of investigators within the office.

Mr. Connery has had experience in the New York Police Department, as it happens, in training. I expect him to add significantly to the amount of training, the kind of training that's done for interrogation.

Ms. HOLTZMAN. Would you mind bringing Mr. Connery to the table with you?

Mr. CROSLAND. Sure. Come up. Bring a chair.

Mr. CONNERY. Good afternoon.

Ms. HOLTZMAN. Hello, Mr. Connery. Welcome to the subcommittee. What position did you hold in the New York City Police Department?

Mr. **Connery**. I was an inspector in the city of New York Police Department. I was the Department Prosecutor. We had a special staff of attorneys. We tried all serious charges of misconduct from New York City Police Departments, approximately 1,100 cases. These are not minor matters that are handled on the local level. These would be retrials of police officers charged with shooting incidents, police officers that were unable to be convicted in the criminal court, as well as serious corruption matters of officers that were unable to be convicted in a criminal court.

Ms. **Holtzman**. And you were in charge of that unit?

Mr. **Connery**. That's right.

Ms. **Holtzman**. And now you're with the Immigration Service?

Mr. **Connery**. That's correct.

Ms. **Holtzman**. How would you characterize the unit within the Immigration Service in terms of its ability to handle corruption complaints?

Mr. **Connery**. Vis-a-vis the number of people presently assigned?

Ms. **Holtzman**. I mean is the unit capable of dealing with the problem?

Mr. **Connery**. Absolutely not. Not with 12 people for nearly 10,000 employees.

Ms. **Holtzman**. How many people do you need?

Mr. **Connery**. You want to ask me that?

Ms. **Holtzman**. I'm asking you that.

Mr. **Crosland**. We're starting out with 30 additional.

Ms. **Holtzman**. Mr. Connery, theoretically, in the ideal world, what would you need?

Mr. **Connery**. In the ideal world, when you look at corruption, if you have a a problem of corruption and also a civil rights problem, which are the same types of problems that were in the New York City Police Department, you use the standard ration that is used for corruption investigations. And that's 1 percent of your personnel that might be involved in corruption type activity or in civil rights violations type activity.

Ms. **Holtzman**. What would 1 percent be?

Mr. **Connery**. Ninety-seven.

Ms. **Holtzman**. Ninety-seven.

Mr. **Connery**. However, I think that percentage—that percentage is based normally upon an agency being within a single geographic jurisdiction, a relatively small size. The problems become compounded the more the organization is decentralized.

New York City has approximately 320 investigators—that's not support staff—assigned to investigate internal corruption to prevent it, as well as civil rights violations. That's a ratio of 1 for every 74.6 police officers. And despite the fact that crime is a serious problem in New York, we feel that it's necessary to maintain that ratio.

Ms. **Holtzman**. So, in other words, what you're telling me is that 30 additional people for the anticorruption unit would really be roughly a third of what you need.

Mr. **Connery**. We have 12 already. So that's 42.

Ms. **Holtzman**. Forty percent of what you need.

Mr. **Connery**. Of what you would ultimately, obviously, need. And I don't know whether it's absolutely necessary to put that amount on initially. What you might want to do is start with a couple of large regional offices, and then expand once you've proven your track record.

Ms. HOLTZMAN. But a total of 42 isn't going to do the job?

Mr. CONNERY. Not in my estimation, no.

Ms. HOLTZMAN. How many years of experience did you have in New York?

Mr. CONERY. Twenty-five.

Ms. HOLTZMAN. Let me ask you about the training of the people in the anticorruption unit.

What kind of training do they need?

Mr. CONNERY. Well, they're a mixed group.

Ms. HOLTZMAN. I want to break out the training with regard to corruption and the training with regard to civil rights problems.

Mr. CONNERY. Well there are separate skills involved. The corruption investigations are extremely difficult. What would be my idea would be to prevail upon our chief of Inspectional Services to send them to our Internal Affairs Investigative course. Not that they need the additional training necessarily, but it will enhance their present capabilities.

You need to get experience in photographic work. You need to get experience with using certain types of electronic equipment, and also enhance skills in which to question witnesses and how to question them; the priority of the order; when to stop covert surveillance, when to start it; a number of things like that. But civil rights violations are kind of different, and they're difficult to address.

We have a Civilian Complaint Review Board. We have a staff that's available 24 hours a day to respond immediately. But that's within a city, even though it's the largest city in the United States.

Now, I'd say it's very important, if we're to assume some responsibility in that area, that we be able to respond at a maximum within 24 hours, which is an outer limit, and to have an experienced investigator that has been trained, perhaps by some attorney, and perhaps even have a few people with even police legal experience. I have a few of them in mind that have been very good with prosecuting all of the major civilian complaint brutality cases within our department.

Ms. HOLTZMAN. What's your ability now to respond to a complaint of brutality? How long will it take?

Mr. CONNERY. That's very questionable. I couldn't give you an estimate.

Ms. HOLTZMAN. Could it take 1 year.

Mr. CONNERY. Oh, no, no. A lot of the complaints are assumed by the FBI Civil Rights Division presently. They respond quite rapidly because they have the resources and appropriate deployment to do so. The capability—a lot of times they assume jurisdiction over the most serious cases. So they have the jurisdiction in that area.

If we were to handle a case, I'd say sometimes it might take—we could start a preliminary investigation almost immediately. That would be done by the local regional investigator. Based upon their finding, we would send someone out to subsequently investigate. But we're limited because we have 12 investigators. They're all located in Washington, D.C. And they fly out to these various locations. So right there you have a serious geographic limitation which, as the

Commissioner indicated, can hopefully be remedied by some more appropriate geographic distribution of resources.

Ms. Holtzman. Let me ask you about penalties imposed by INS if there's a complaint sustained against an employee for misconduct. What penalties do you have?

Mr. Crosland. That's not handled by OPR. The complaints are handled by, after the investigation is completed, then the region is advised, and the section chief would have responsibility, or the district director, for imposing some type of discipline.

Now, what I've asked as part of this process of review is that every month they provide me with a report of what complaints have been, what investigations have been completed, where the allegations have been sustained, and what disciplinary action if any was taken and what was it.

Ms. Holtzman. Right now what kinds of disciplinary sanctions can be imposed?

Mr. Crosland. Letter of reprimand, suspensions, terminations.

Ms. Holtzman. Can fines be imposed?

Mr. Crosland. No, no fines.

Ms. Holtzman. Mr. Connery, do you support being able to impose fines in cases of misconduct?

Mr. Connery. We do. I think that's just general Federal Government policy. But in our disciplinary system we have a completely different system where people are brought before a trial commission, and we litigate the case, which is all right within the same geographic area. But we also negotiate a lot of our cases too. We negotiate them for substantial fines, or the Commissioner issues fines.

The benefit of a fine is that if a person is accused of, say, cheating the Government out of money by fraudulent overtime or something like that, you multiply by three or four the amount he cheated you, and you take it out of his check, which has a salutary effect upon his repeating that conduct.

Ms. Holtzman. That's the system you used in New York?

Mr. Connery. That's what we do, sure. We fine police officers $277 an hour for every hour they were sleeping when they were supposed to be working. We found that when we did that, we had less problems in that area.

Ms. Holtzman. Mr. Crosland, do you think there's a problem with instituting a similar kind of fine system?

Mr. Crosland. Mr. Connery and I have talked about that briefly. I don't know what the legal prohibitions would be. It would need some legal research and discussion with OPM as to whether that's possible. It certainly does get a person's attention.

Ms. Holtzman. What's OPM?

Mr. Crosland. Office of Personnel Management.

Ms. Holtzman. At the Justice Department?

Mr. Crosland. No, the super agency of personnel, Civil Service.

Ms. Holtzman. Could you respond promptly to the subcommittee on that issue?

Mr. Crosland. Yes.

[The following memorandum was submitted in reply to the Chairwoman's request:]

MEMORANDUM

OCTOBER 16, 1980.

LEAVE FORFEITURES AND FINES AS DISCIPLINARY ALTERNATIVES

CO 287.3-C.
To: Neil Leary, Congressional Liaison.
From: Walter P. Connery, Director, Office of Professional Responsibility.

The Disciplinary System utilized in New York City allows for a wider range of penalties than that available in the Federal Service.

The major distinction is in the ability of city agencies to impose leave forfeitures and fines as disciplinary alternatives.

Comparison showing progression of penalties in Federal and New York City Disciplinary Systems:

Federal System: Oral reprimand, written reprimand, suspension, removal.

City System: Oral reprimand, written reprimand, leave forfeiture, fine, suspension, removal.

The Leave Forfeiture—(Ex. 5 days annual leave) is viewed in the city system as being less economically damaging to the employee and is employed for moderately serious infractions. Thus, if an employee has been leaving work early, and the lesser penalties have not corrected the situation, the next step will usually be to assess a leave forfeiture against the employee on a 2:1 ratio. An employee that has 'clipped' his employer for 4 hours would be penalized 1 day's annual leave. While an individual case might call for a higher penalty, the 2:1 is fairly standard. Leave forfeiture has far less impact on the employee than either fines or suspensions and is a valuable intermediate step.

Fines—(Ex. $250 fine)—A penalty less then suspension imposed where the act involves some relation to a monetary base (Ex. Improper Travel Vouchers, Large or consistent time clipping, etc.) or as an intermediate step to the more serious penalty of suspension.

Fines are deducted in increments of $25 or of $50 from the employee's paycheck until the fine is satisfied.

Advantages over Suspension:

(1) The Federal Government does not lose the services of the employee.

(2) More appropriate where the act relates to some actual or attempted monetary loss to the government.

(3) Less economic impact on the employee and his family when compared to a suspension.

(4) Possibility of remitting a portion of the fine based on satisfactory performance.

(5) An additional tool for management that is less severe than suspension but conveys a definite disciplinary message to the employee.

The alternatives of leave forfeiture or fine are not presently available in the Federal Service and according to the Office of Personnel Management legislation would be required to implement such measures.

Ms. HOLTZMAN. I think we want to make sure that there is a whole range of sanctions available that will have a deterrent effect and that can be used effectively to stop the serious problem of corruption within the Immigration Service.

Mr. CROSLAND. Let me add one other thing too, if I may, on OPM. It's my impression that there are a number of cases or complaints that are made, the nature of which could be dealt with better by management rather than by having people expend resources on something which is a management problem as opposed to a problem which should go to a grand jury.

In the past a number of cases have been sent over to the U.S. attorneys offices where there was no realistic likelihood that there would be any action taken by the U.S. attorney.

Ms. HOLTZMAN. Why is that? Because the cases weren't strong?

Mr. CROSLAND. Because of the caseload, and it wasn't really the kind of case that should have gone to the U.S. attorney's office. And what I think Mr. Connery brings is a balance of experience, knowing what should go to the U.S. attorneys office, what should be at some point perhaps diverted, say, in a management disposition.

Ms. HOLTZMAN. I want to ask briefly about the issue of training to deal with the problem of alleged brutality in the Border Patrol.

Is Mr. Connery going to be dealing with these issues as well?

Mr. CROSLAND. I think because of his experience in the New York Police Department, although that's not an official part of his job duties, I would like to draw on his expertise.

Ms. HOLTZMAN. The reason I raise this is because I think New York City generally has a good reputation for professionalism in terms of trying to deal with problems of brutality within the police force. There are several techniques that have been used in New York; for example, inservice training of the officers involved, reports when guns are used, types of training so that guns are not resorted to immediately.

I understand that there really is no similar training of members of the Border Patrol after their initial orientation; isn't that correct?

Mr. CROSLAND. The degree of training has been almost nonexistent until about 1 year ago, I suppose. I had the occasion as General Counsel to go down and speak to a group of Border Patrol men in Glencoe. The range of experience of Border Patrol men went from 5 to 13 years. It was the first time any of them had any followup training in their entire career on the Border Patrol. Very few of them had had contact with lawyers. There had been no training as to what changes in the law had developed.

We recently revised the handbook, but you need somebody to actually explain what the changes in law mean. That had not been done.

Ms. HOLTZMAN. My concern is that it's a lot better, as you indicate, to prevent cases of misconduct rather than deal with them afterwards. I would hope that you would draw immediately on the experience in New York to avoid as much as is possible cases of brutality. I hope that you'll give us a report promptly on what steps you intend to take with regard to using techniques that have been adopted in police forces around the country and have been developed over a period of time so that we can have high standards of performance and professionalism by our Border Patrol.

Mr. CROSLAND. Be happy to.

Ms. HOLTZMAN. Thank you.

The gentleman from New York, who now is distinguished as the New York Congressman with the very eminent title of being the father of one of New York's most eligible bachelors, Mr. Fish.

Mr. FISH. We get our publicity anyway we can.

Commissioner, I'm going to have to leave briefly to be on the floor when the House convenes. I hope we will have a chance to continue this. I'm not going to finish my line of questioning this one time.

But I do want to congratulate you on your testimony with respect to meeting the problem of misfeasance, alleged misfeasance in the

Border Patrol. It's very encouraging to learn of the prompt actions that you took following the New York Times articles and the creation of the Office of Professional Responsibility.

I think also, and I wish to read that part completely, but it does appear in several paragraphs in your statement where you made some important points, it seems to me, with respect to the professionalism of the Border Patrol and your confidence in the men comprising the Border Patrol. It is extremely important, it seems to me, that you, together with those of us in Congress, have the responsibility of restoring public confidence, deserved public confidence, in the Service.

I was also pleased to hear you say that you think there's a need for better communication of the needs and interests of the Service. I certainly commend you for that because it is this that the subcommittee has been endeavoring to do for some years.

In reading your testimony where you are addressing the issue of mismanagement, I notice a focus primarily on two factors, the accountability and the internal affairs unit. It seems to me that where mismanagement bears on the question of morale of members of the Service, why, we have some other considerations.

One of them that I have heard about has come under the heading of communications with members of the Service. I understand that when General Chapman was the Commissioner they had a—I forget the name of it—but the newsletter that went out to people in the field in the Immigration Service, Border Patrol. But there has been several months now, almost 1 year since the publication was discontinued.

Do you have any comment on that as it represents communications between management and employees?

Mr. CROSLAND. Yes; I think it's well to have a newsletter of some description. I have sent out, I think, two or three publications to the employees, one when I started as Acting Commissioner, one in praise of employees for their hard work and responsiveness during the Iranian project. We have one that's prepared. It's a draft. I'm not sure whether it's gone out. It's more detailed.

I think it's important that we communicate down to the individual people on the line. I've also attempted in my travels, if I'm giving a speech somewhere, not just to go into a town and give a talk to an organization, but to go by the district office, if there is one there, and go through and try to in fact meet every employee who is on duty that day. I've done that in several cities. But you cannot reach every single employee in the Service that way. So you do need more communication.

Mr. FISH. I could not agree with you more. I think there is a feeling of isolation by the very nature of the work. Ports of entry are normally far apart, and obviously, on the borders, so there's going to be quite a distance of many of them from Washington.

How about the question of the employees—again going to this issue of morale and management—the employees' accessability to management? I understand there have been quite a few problems in recent months where the employees and their representatives particularly didn't feel that they had access to the people who are making decisions that were vital to them.

Mr. CROSLAND. I've also talked to Mr. Harpold and Mr. Bevan's here in the audience.

Mr. FISH. They're right behind you.

Mr. **Crosland.** Right. We had a meeting with Mr. Shenefield on this issue. I pointed out to them that I had not received any requests from the time I became Commissioner in October until our meeting, which was, I guess, in early February, to meet.

I met with Mr. Harpold. Mr. Leary and I met with him, I guess the following week. Just this week Mr. Bevins and I have met, along with Mr. Harpold.

I am happy to meet with union representatives on matters of mutual concern to the Service. I think it's appropriate that by and large individual grievances be handled through the normal grievance process, and I think they would agree with that. But there are some issues which might transcend the need to go through that process, and it's appropriate to discuss those issues with the Commissioner.

Mr. **Fish.** So you're saying that you are unaware in the last quarter of last year of any attempts by union representatives to see Mr. Shenefield?

Mr. **Crosland.** I'm not talking about Mr. Shenefield. I'm talking about me.

Mr. **Fish.** I thought you testified that you were just aware of this. I thought you said that.

That was not your testimony?

Mr. **Crosland.** No. I said at a meeting with Mr. Shenefield in which Mr. Bevans and Mr. Harpold were in attendance. They expressed concern about the lack of access to talk with the Commission. I've called Mr. Harpold on occasions, and he's called me on occasions. But in fact, when I first became Commissioner, I suggested that we get together. We were unable to at that particular point, but he had never actually requested a meeting.

He requested a meeting, and we've had two meetings. I've had two meetings with Mr. Harpold; one before the union conference in El Paso, and one this week.

Mr. **Fish.** Well, I'm sure you agree, don't you, that if indeed we are to understand, periodically written communications to employees and accessability or the feeling of the lack of accessability to top management, are issues that, since they go to the question of morale, should be of concern and are matters to which your time should be addressed?

Mr. **Crosland.** I think it is.

Mr. **Fish.** I agree with you.

Now, I think another basic question in going to the issue of morale is whether or not the Department of Justice is supporting you and the Service. I would be hard pressed to make a case that it is.

I'd like you, based on your own testimony here today, if you would, to address this, because I think this may be the place that we can help you.

In your testimony, you said and I'll deal with three areas only, inspection, adjudication, and naturalization:

> An area in which a dramatic increase in workload has occurred without commensurate increase in staff is inspections. International air passenger traffic to the United States has increased by more than 40 percent over the last four years.
>
> Naturalization is another area in which we are hard-pressed to satisfy the growing demand for service. Since the end of the last fiscal year pending naturalization applications have grown to more than 100,000, and we project more than a quarter million applications this year.

In the Adjudications Division, receipts of petitions and applications have been at record-high levels, and are now approaching two million a year. The increase since fiscal year 1977 is nearly 40 percent.

So now we look at the material presented with the budget.

In the case of inspections for fiscal year 1979, permanent positions were 1,667; estimate fiscal year 1981, 1,559.

Measure that against what I said to you, what I read from your own testimony.

Border Patrol on the immediate border, fiscal year 1979, 2,510; fiscal year 1981, 2,524; for an increase of 24 on the border positions, and 39 reductions in interior positions, comparing the 2 fiscal years.

Adjudications did go up from fiscal year 1979 from 859 to 910 estimated for fiscal year 1981.

Naturalization, 454 in 1979, compared with 452.

Now, I think that makes a pretty good case, where you have a static or a reduction in personnel, in the context of what you yourself describe as really a growing burden in the service end of the Immigration and Naturalization Service.

Do you have any comment as to how we can address this issue that translates into a lack of support by the Department of Justice for this unit?

Mr. CROSLAND. My observation is that there was, at least at the time I arrived in October, not as good a working relationship between the Commissioner's office and the Department of Justice, the Justice Management Division.

There has been a mutual effort to correct that problem by Kevin Rooney and by me. I have spent a great deal of time working and meeting with Mr. Shenefield, associate attorney general, and with Mr. Civiletti. I think that I probably have, I would guess that I have spent—the Attorney General has spent a disproportional amount of his time on matters relating to the Immigration and Naturalization Service than he might have to perhaps most other divisions or bureaus within the Justice Department, with the possible exception of perhaps the FBI.

I find a commitment in both Mr. Shenefield, the staff, and the Attorney General, to assist the Immigration Service in discharging its responsibility, a willingness to listen to problems that we have.

I don't think it's constructive for me to sit here today and to try to, in effect, drive a wedge between INS and Justice Management Division, OMB.

I alluded to, in my discussion at the opening, the need of the Immigration Service to present its request for people or equipment in such a way that makes good sense. And part of doing that is knowing what people who make the decisions on how much money you get and how many people you get, what their criteria are and what they are looking for.

Everybody's got a different responsibility. I've got a parochial interest in the Immigration and Naturalization Service. The Justice Management Division is looking at the broader picture of all of Justice, and the Office of Management is looking to the entire Federal Government.

Mr. FISH. I did want to get these figures in. I think you're right. I think the issues I raised with regard to cooperation and care and support from the Department of Justice should properly be raised with Mr. Shenefield, and will be at a later time.

Finally—and I don't want to use up all of the time of my colleagues—I think an issue that goes to morale is just exactly what is the national resolve to do anything about the mission of the Border Patrol; that mission is to maintain the integrity of our international boundaries by preventing smuggling and illegal entry, and apprehending those who violate our laws. I can understand why morale is poor if there seems to be really a lack of interest in people overstaying the terms of their admission, and a lack of interest in illegal entrants. And I say that because I can document it. We have before us a fiscal year 1981 budget request that actually calls for a decrease of 160 positions in the Border Patrol for border operations, and 39 for positions other than on the border.

The justification given for this decrease by the Department of Justice is that the Administration does not believe that the additional positions added by the Congress and the funds appropriated last year for fiscal year 1980 would in itself make a significant contribution to border enforcement.

Mr. **Crosland**. If I may, I've read also that justification. We should not lose sight of the fact, though, that there is a net increase of 301 positions in the Border Patrol that will be filled this year, and will continue next year.

So, although there was a decrease of 160 positions from what Congress authorized, and 39 others, reducing the 495 to 301, there will be a net increase of 301 positions.

So we're not actually losing positions, losing people. If we hired all the 495 this year, we would have an additional 301 Border Patrol men on duty by the end of this fiscal year, and next year——

Mr. **Fish**. You mean the 301 is what's left after the 495 that we appropriated money for was hacked? Is that what you're saying? I can add and subtract.

Mr. **Crosland**. I think the record speaks for itself.

Mr. **Fish**. What record?

Mr. **Crosland**. The record you just said.

Mr. **Fish**. You haven't added 301 positions. We appropriated money 1 year ago.

Mr. **Crosland**. We didn't get it. We didn't start hiring until next year. We appropriated for fiscal year 1980.

Mr. **Fish**. We'll get into when you hired them and what happened to them, tomorrow. Let's not make that 301 sound as if it was, you know, good old OMB has come to your rescue.

That is what's left of a tattered and torn appropriation by this Congress.

Mr. **Crosland**. Well, the process of relation to Congress and the Office of Management Budget is one that was here long before I came, and will be long after I'm gone.

Mr. **Fish**. Well, that also will be something that I will be going into at some length the next time we meet.

Mr. Commissioner, you stated in your opening remarks, I believe, apprehensions at the border in the last fiscal year were slightly higher than the previous year.

Now, in view of what we both know to be the Department of Justice position here, and just not thinking that more patrolmen will be effective to contribute to the border enforcement, at what point in your judgment does the situation become serious enough to warrant greater attention to border enforcement?

Mr. Crosland. Well, I've given a good deal of attention myself to border enforcement. One of my concerns is the safety of our own people out there. I have instructed, since I've been acting Commissioner, that in order to reduce the potential for violence to our own people, or the possibility of someone being attacked and therefor someone else getting hurt, that in high risk areas, the border patrolmen, in times of darkness, the border patrolmen be assigned to their car. That's in situations where they're not in contact with one another.

As you know from your many tours out to Chula Vista, when someone gets in a car down in one of those deep ravines in the middle of the night, and in the dark and without radio contact, it's awful lonely. This has, in effect, cut down on geographic coverage, but as yet it's too early to determine what effect if any it will have on apprehensions.

Ms. Holtzman. The gentleman from Texas.

Mr. Hall. The last question raises a question with me, what type of weapons do these people carry in those areas? I mean other than sidearms. Do they have automatic rifles?

Mr. Crosland. No, sir.

Mr. Hall. 30-06 rifles? Something to get the job done if they need it?

Mr. Crosland. The border patrol men have magnums, and Immigration inspectors have .38's.

Mr. Hall. Are they loaded to shoot if necessary? They haven't got blanks in them, have they?

Mr. Crosland. No; they do not.

Mr. Hall. All right, That's good.

Now, on page 10 of your testimony, there's one statement that jumps out at me that I don't understand.

Are there 43 different audits going on at this time in your department?

Mr. Crosland. Yes, sir.

Mr. Hall. Forty-three in number?

Mr. Crosland. They vary in terms of scope, but there are 43.

Mr. Hall. And you mention on the top of page 11 that those include audits by the main Justice, GAO, and from within INS.

Who has authorized 43 different audits of INS?

Mr. Crosland. Well, they've been done over a period of time. Different congressional committees have asked for audits, including this one. Justice Management——

Mr. Hall. Have we asked for more than one?

Mr. Crosland. I'm not sure what the exact breakdown is.

Mr. Hall. Are the auditors auditing each other?

I'm serious. I mean, that 43 in number sounds staggering.

Mr. Crosland. They're on top of one another. Washington is a strange place.

Mr. Hall. It is.

Mr. Crosland. Somebody reads something, and they figure they better cover themselves, so they do an audit. They want to do an audit before the next one does, so they can say they did it first.

Mr. HALL. How many man-hours are you having devoted to making people available for these 43 different audits that are going on at the same time?

Mr. CROSLAND. I haven't asked for an audit on that. [Laughter.]

Mr. HALL. Are they auditing—I know it's ridiculous—but are we having any real effects, affirmatively, out of these audits that we're having? Who do they report to? Who looks at the audit? Who reads it?

Mr. CROSLAND. Well, the GAO audit on procurement automation right now is reporting, I understand this afternoon, to the prior committee staff. I've asked that they would share with me what they found, and they said that they may do it next week if they get permission.

The GAO report to the congressional committee. Justice Management Division audit. Some of them are routine. They report to the Justice Management Division.

It's necessary to have some audits. I don't want to discount all of this. We want to have some checks and balances within the system. Planning, Evaluation and Budgeting may audit a function, usually of the management aspect of INS, to make sure that everything's being done properly.

Mr. HALL. Is it your opinion that we need 43 going on simultaneously?

Mr. CROSLAND. No. I had a meeting with some of the people from main Justice about that. Everybody was equally surprised as you that the number had grown to that. We tried to consolidate the various audits within—take advantage of whatever had already been done—and consolidate them if they're necessary, if they're still necessary, take advantage of each other's work.

Mr. HALL. At some point in time I'm sure all 43 of these auditors wish to spend some time with you.

Mr. CROSLAND. Yes.

Mr. HALL. Could you give any estimate as to the time, what amount of time has been spent with them in their discussions with you on various and sundry subjects per week?

Mr. CROSLAND. I don't know per week. Usually it's a larger type of audit; there's an introductory situation.

I suppose a going-in meeting would be roughly 2 or 3 hours.

Mr. HALL. Would you make available for me, and I hope for the committee, the names of these different audits that are going on at this time and what those audits are supposed to cover, and by what authority they are operating.

Mr. CROSLAND. I'd be happy to supply that.

Mr. HALL. I don't want you to have to make an audit to do that.

Mr. CROSLAND. No; we have a list.

Mr. HALL. All right. I know that's asking too much right now.

I think it's absolutely deplorable that INS or any other institution in this country is being audited by 43 different audits simultaneously. Someone is just keeping a job.

Now, going on to something else. You stated about the number of people who will be eligible for—I think on page 1 you state that you expect 50,000 Indochinese refugees to apply for citizenship when they become eligible. And also, they will bring relatives from abroad.

If we talk about 3 or 4 people per family, we're talking about 500,000 or more potential people coming into this country, are we not, seeking citizenship status?

Mr. CROSLAND. I would guess—usually that's the case. With Indochinese, it's less realistic than with persons coming from a country with which we have friendly relations. But for persons who are refugees who have no contact, maybe the whole family might have come out. So, I think it's probably less realistic for that particular people.

Mr. HALL. Do you have any estimate as to the number of people, the potential refugees that may be coming into this country when the time to apply is upon them? In numbers.

[The following information was submitted by INS in response to Mr. Hall's question:]

The potential immigration impact which would result from the naturalization of an estimated 50,000 Indo-Chinese Refugees.

The naturalization of 50,000 Indo-Chinese refugees will provide potential immigration benefits to three additional categories of relatives. These are: parents; married sons and daughters; and brothers and sisters. We estimate these categories will total 63,000 persons as follows: 25,000 immediate relative parents; 5,000 married sons and daughters; and 33,000 brothers and sisters. Two additional relative categories, spouses and unmarried sons and daughters, are eligible for immigration preference because of their relationship to permanent resident aliens. Benefits in this preference (2nd preference) are available after the principal refugee becomes a permanent resident and continues after he becomes a naturalized citizen. Therefore, these relatives do not represent an additional potential immigration impact. The principal refugee's naturalization will cause some of the potential immigrants to either move up in the order of preference for the issuance of numerically limited visas, or to be removed from the numerical limitations entirely. We estimate that 25,000 persons are in this group. Added to the 63,000 who will become eligible by the refugees' naturalization, we have an estimated total of 88,000 persons who will potentially derive immigration benefits by their relationship to the original 50,000 refugees.

Not all eligible persons will wish or will be able to come to the United States. Of the 63,000 persons who will potentially derive immigration benefits through the naturalization of Indo-Chinese refugees, no more than 40,000 will actually arrive in the United States. Of the total 88,000 who will become eligible for immigration or who are already eligible, no more than 55,000 will actually arrive here.

Mr. CROSLAND. I don't off the top of my head.

Mr. HALL. Does anyone at the table have that information?

Mr. CROSLAND. I would like to submit it for the record if we could come up with some estimate. I'm not sure.

[Subsequent to the hearing, the Immigration and Naturalization Service submitted an estimate of 80,000.]

Mr. HALL. I want to compliment you. I think you're doing a heck of a good job. You're getting more grayheaded every time I see you.

Mr. CROSLAND. Thank you.

Mr. HALL. And I hope that we can diminish some of the audits. I yield back the balance of my time.

Ms. HOLTZMAN. I would like to note that this committee has asked not for an audit but for one complete and thorough management review by an outside independent organization to tell us what needs to be done to improve the management of INS.

Mr. HALL. I'd like to know about the other 42.

Ms. HOLTZMAN. The gentleman from California.

Mr. LUNGREN. Thank you, Madam Chairman.

Mr. **Crosland**. I must say that I have to agree with what my college from Texas said: You not only are getting very gray in your job, but in your presentations it's very hard to get upset with you, as sometimes I think we feel we should when we start looking at the figures here.

The concern I have is one that was alluded to before with respect to the Border Patrol position. As a new member last year, I recall hearing virtually the same recitation of excuses as to why the administration wasn't doing anything. We were told that there was no justification for it. As a matter of fact, the No. 2 man no longer with you said there was less pressure on the border than there had been the year before.

I read your testimony where you said that you had been on the border as I was last year. So I would assume you would not say that same thing, that there is less pressure on the border either last year or this year.

Frankly, I'm at a loss to know what to do. Maybe I'm asking your advice on this.

Last year the Department came in to us with a recommendation of cutting the authorization back for Border Patrol officers from the year before. We put that back in the subcommittee. Then in full committee we even upped it a little bit more so that we had a total increase of 495 positions.

We went to the Appropriations Committee, and we lobbied and lobbied and lobbied with them so they would put the money in. It was correctly to be earmarked for this area.

I am certain that no one in the administration was unaware of the fact that it was the intent of Congress to have 495 more positions. Now I'm told, in looking through this—I can read—that all those positions haven't been filled this year. We come again with the argument that, well, we don't believe that by and of itself this is a solution to a problem.

Can you give me some idea about what we need to do to let OMB know that Congress is serious about it? When I was elected, I thought I was supposed to vote for the people. I feel maybe I should send my card down to OMB and have them decide what we should be doing. I know it puts you in a difficult position. But frankly, when we have representatives before us, they tell us that we're talking to the wrong people. Maybe we ought to change the process here and have every particular committee in the House deal directly with OMB.

Can you give me some help on that? What do we need to do to let them know what's important?

Mr. **Crosland**. Well, I've been trying to fathom the process myself to better improve communications so that the needs are articulated in a way that is appreciated.

I guess we need to have more of the same.

Mr. **Lungren**. What more can we do than earmark the funds and say they should be spent? A previous administration was sued by the Congress. It was called impoundment. Some people even suggested impoundment was an impeachable offense.

Here we sit and smile about the fact the administration hasn't taken seriously what we've asked it to do. I really don't know. I know communication is something we ought to encourage. But if the Service and the Department doesn't really go to bat for their employees, that is, the Border Patrol, who is going to?

Mr. CROSLAND. I think the Service has and is going to bat for its employees. I think Justice is. The OMB has responsibility which is broader, obviously. They are trying to discharge their responsibility, as are we, as they see it.

Mr. LUNGREN. This last year the Justice Department has come before us and supported bills to create a new program known as "Dispute Resolution Centers," and a new program known as "Domestic Violence Centers." I believe they're supporting a bill that's going to be on the floor with respect to the Federal Government picking up the funding of State programs or part of it for victims of crime compensation.

Those are three areas where they're starting new programs directly in the area of justice, and yet we can't get the administration to really do the job on the border.

I have a resolution that was passed by the Los Angeles County Board of Supervisors, asking the Congress to do something about it, that we bolster the Border Patrol.

Under the Constitution, my local cities and counties can't do anything about it. It would do us a far greater service if the administration would do the job of enforcing the border instead of coming up with these other programs. That, to me, is some suggestion of where the Justice Department stands.

We're talking about new programs to help communities, when in the Southwest it's not being done. I'm sure you know that as well as I do. I feel as you do about the members of the Border Patrol. Generally speaking, I think they're doing a good job. But as you say, they're concerned about what they perceive as a lack of support on the part of those of us here in Washington. I frankly don't believe that what I've had presented to me suggests that there's any change in attitude. I doubt that the men on the line are going to feel that way.

Mr. CROSLAND. I don't think I can respond other than what I've said. I appreciate what you're saying and your frustration.

Mr. LUNGREN. Is there anything I should tell my board of supervisors except that the INS isn't going to get more positions this year?

Mr. CROSLAND. The INS will get 301 of the 495 positions.

Mr. LUNGREN. That they were supposed to have last year.

Mr. CROSLAND. If we hired all 495 this year and trained them, we'd have to fire 160 at the end of the year.

Mr. LUNGREN. Why is that?

Mr. CROSLAND. Because the 1981 budget does not include 160.

Mr. LUNGREN. We haven't passed the budget yet.

Mr. CROSLAND. That's based on the proposed budget.

Mr. LUNGREN. We had the same thing last year, and we managed to get those 495 positions that weren't in the budget either.

What you're saying is you're being told that because the budget, irrespective of what Congress may do, does not envision having these positions for next year, that's the justification for not following the intent of Congress this year and spending the funds that we've already authorized and appropriated for those positions.

Mr. CROSLAND. You can only bring on so many people at a time. We have two overlapping classes in the Border Patrol Academy down at Glynco right now. And we'll bring in another group. We'll also be filling existing vacancies through attrition. It would take a period of time to train, bring on and train roughly 500 new border patrol men. I'm not sure that we could do it all in a year.

Mr. LUNGREN. I understand.

Mr. CROSLAND. What I'm saying, though, is even if we did and we got them all on board, the last group would probably have to just turn loose, fire them after their graduation because it would, assuming the 1981 budget is approved as proposed.

Mr. LUNGREN. Let me just say one thing.

Ms. HOLTZMAN. I was going to ask you to yield on that point.

I think what we're finding here is that Congress passes laws and then nothing is done. Whether it's with regard to the creation of an Office of Special Investigator, or whether it's with regard to increasing the number of border patrolmen, or whether it's with regard to computerizing the Immigration Service, despite the efforts of the subcommittee basically nothing happens. I think the subcommittee has shown constant concern for trying to improve the efficiency and morale of the agency. We then see foot-dragging on the part of the executive branch. I assure the gentleman we're going to try to get Mr. Shenefield and the people in the Department of Justice to respond.

Mr. LUNGREN. I thank the chairwoman.

Let me say one thing. It's not directed at you. It's directed at whoever is making the final decision, evidently OMB.

I heard exactly the same comments last year. We've had virtually 12 months now in which we're hearing the same thing. Don't give us 495. We can't do them in a short period of time.

Well, we authorized that last year. We appropriated it last year, and so there would be at least a 12-month period of time in which to do it. But every 12 months we hear we can't put those people on. Frankly, it looks to me like either an unconscious or conscious effort to frustrate the will of Congress. You have succeeded in frustrating one Congressman.

Mr. CROSLAND. There will be an additonal 301 of the 495. I assume if Congress expands the budget beyond what's proposed, which is a cut of what's authorized for 1980, then they could—and the administration or OMB approves it, then there would be the hiring of the additional 160.

Ms. HOLTZMAN. The gentleman from Virginia.

Mr. BUTLER. Thank you, Madam Chairman.

I do not have any questions, except that I appreciate the tenacity of our witness in hanging in there. I agree with the witness, with the members who have said that we appreciate the job you're doing. I don't want you to get too relaxed, but I don't think you're in danger of that.

I yield.

Mr. CROSLAND. Thank you.

Ms. HOLTZMAN. I'd like to ask you for the record, Mr. Crosland, why has there been a delay in appointing the special investigator? The law went into effect on November 30. It's now the end of February. We have serious problems of mismanagement and corruption in the Immigration Service.

Why hasn't the special investigator been appointed?

Mr. CROSLAND. Ms. Holtzman, it would not be my responsibility to hire a special investigator. I understand that a person has been designated. I assume that he would have to go through an FBI background check. I also understand that the Attorney General has communicated that to you.

I have not been so notified, but I assume that as soon as the person who gets the nod or who has the nod, as the case may be, is about to be put on board, then we will be told as to who he is or she is.

Ms. HOLTZMAN. There seems to be quite a slip between getting the nod and being put on board. I'm very concerned about that.

I want to turn to the issue of computerization. Why hasn't the effort been made to design a system to keep track of people who come into this country on a temporary basis? We provided money in the budget last year for catching up on the backlog and beginning to design a new system. We have seen basically, in the case of the Iranian students, a breakdown of the present system; we don't know who's come into the country and who's overstayed their visas. We even have 139 or so Iranian diplomats—I forget the exact number—who have disappeared.

Mr. CROSLAND. Let me respond to the first question first.

Ms. HOLTZMAN. Why haven't steps been taken, and what is the timetable for developing that new system?

Mr. CROSLAND. A proposed study as to what kind of system should be put into effect, a contract for an outside study, has been prepared, and it's been sent over to the Justice Management Division for approval in the contracting process.

As to the timeframe, I'm not exactly certain how long it will take. But I could find out, and we could certainly speed up the process.

In the meantime, my sense is that no matter who does the outside study, the first thing that any outside person is going to do is to come in and try to find out who we are. So they will be spending time asking us questions.

What I've asked our people to do is to ask ourselves those questions so that we will have a head start.

So that's going to mean sitting down and having inspections, write out what the process is from the time that a nonimmigrant comes to the port of entry, to the time he leaves, what kind of paper we have on him, what kind of paper we should have on him, and what kind of control system.

We expect to publish very shortly regulations on all foreign students which would require that all foreign students report to INS offices in this country, or on campuses, similar to what the Iranian students did. This will probably go into effect this fall, giving time for publication, public comment, and publication and filing.

[The following information was submitted by INS in response to the chairwoman's request:]

STUDENT CONTROL

On March 19, 1980 the Service published proposed revisions of regulations regarding foreign students.

It was proposed to replace the present open-ended student admission for "duration of status" with a more restrictive admission not to exceed one year. In order to complete a course of study of more than one year, a student would be required to apply for and receive extensions of stay in one year increments.

It was also proposed to require all students in the United States who had not reported as Iranian students during November–December 1979 to report in person to an immigration officer. This report was intended to be a one time status verification on all students.

It was anticipated that the proposed changes would result in an increase of some 250,000 applications for extension of stay each year. This represents a significant increase in the recurring adjudications workload which would be added to the one-time workload of conducting some 200,000 interviews. While the Service was reluctant to invite such an increase, it was believed to be the best course of action to obtain some control over nonimmigrant students.

We received about 250 written comments in response to the proposal. Almost all were in opposition, citing the increased work to be done by school officials in assisting students to comply, as well as the difficulty which the Service would have in absorbing such increases. Shortly after this notice of proposed rulemaking was published, the Cuban boatlift began. As officers were detailed from normal duties to process the huge influx of Cubans, it became increasingly apparent that it would be imprudent to voluntarily assume the massive student interview/extension of stay program. Alternate methods of effecting control must be sought.

Meetings have since been held with representatives of the National Association for Foreign Student Affairs, the Department of Labor, and the Department of Education. Consideration is being given to an approach which would place a greater portion of the responsibility for foreign student control on the institutions which enroll them. A system development task team is in the process of developing a cost effective student control plan. While attempts are being made to utilize current resources and manpower, it must be anticipated that the operation of any new system will require additional funding.

Mr. Crosland. But we are internally not sitting back and waiting until some outside group comes in and does a study as to how we should set up a system. We also will take advantage of Mr. Kratzke's expertise in looking at this entire process.

Ms. Holtzman. The subcommittee would like a timetable for the development of this system.

Mr. Crosland. I'll get you one.

Ms. Holtzman. Regulations are fine, but they're only good for the people who want to obey them. For those who don't, we don't know where they are or who they are. I think that that's terribly important.

Mr. Crosland. I agree.

Ms. Holtzman. Let me ask you about the issue of overtime. Is it still true that someone can earn more money than the Immigration Commissioner on overtime and base pay?

Mr. Crosland. It is still true. My understanding is one of our employees earned something like $38,000 overtime last year.

Ms. Holtzman. I think last year we asked for a report on what was to be done with this problem. Perhaps we're just going to have to put something in the authorizing legislation.

It seems to me for someone to earn $38,000 on top of—what was the base pay?

Mr. Crosland. I don't remember exactly what the base pay was. This person earned a total of $74,000.

Mrs. Holtzman. Maybe we can hire a couple of Border Patrol people for that. Perhaps this is an area in which you need some money to hire some additional people that I think you need and that you probably think you need. Perhaps we could get some kind of response on this as well. Otherwise, we're going to put something in the authorization bill with regard to overtime.

[The following memorandum was submitted in reply to the chairwoman's question:]

MEMORANDUM

OCTOBER 17, 1980.

HOUSE JUDICIARY COMMITTEE TESTIMONY

CO 235-P.
To: Cornelius J. Leary, Executive Assistant.
From: Andrew J. Carmichael, Acting Associate Commissioner, Examinations.

Ms. Holtzman asked Commissioner Crosland if inspectors could still earn more than the Commissioner, and the reply was "yes". The reason rests with the provisions of the 1931 Act, which requires premium pay for work on Sundays, holidays, and weekday overtime hours. As long as there is a workload to be met during those inspectional times, the Service must pay the premium rate.

Ms. Holtzman also asked if there would be delays in processing passenger arrivals because of a failure to hire more inspectors. As the Commissioner stated, if the workload increases and we do not have the people to meet that workload, there will be an inevitable increase in delays experienced by arriving passengers, since the ratio of passengers to inspectors will rise. The alternative would be a decrease in the quality of inspection, with attendant risks, to accommodate faster processing of arrivals.

Ms. HOLTZMAN. I want to talk about budget insofar as inspections are concerned and the request for additional people.

I notice that despite the fact that you have indicated that foreign travel has increased by 40 percent, you're only asking for 15 additional people, all for the Miami airport.

What are the consequences in terms of delays at other airports because of the failure to hire more people to do inspections?

Mr. CROSLAND. I'm not sure I understand. What are the consequences of delays?

Ms. HOLTZMAN. Right, like JFK, for example.

Mr. CROSLAND. Well, we would have to use overtime. We don't have enough people. That's one of the reasons we have a fairly high overtime in spite of the fact that people get paid premium pay on Sundays. Longer delays would and will be experienced. I think that's what we'll have to look to.

Ms. HOLTZMAN. Is it true that there's a new policy directive by INS stating that beginning March 2 and every Sunday and holiday thereafter the inspectors at JFK will be reduced by 25 percent?

Mr. CROSLAND. It's true a policy directive was sent out in the eastern region as to JFK. That policy will be changed inasmuch as the program will look at the funds that are available for overtime in other regions, and spread out the cost throughout the entire United States, therefore reducing overtime in the entire United States rather than concentrating just in the New York area.

Ms. HOLTZMAN. Well, I don't know if the issue is whether or not it's done with overtime or how it's done, but it seems to me that if you were going to reduce the number of inspectors at JFK by 25 percent on Sundays and holidays, we're going to have enormously serious problems of delay.

Do you agree with that?

Mr. CROSLAND. I do. But we will reduce them some. What we'll do is use money from other regions to pay for overtime in the New York area. Some regions have less expenditures than New York.

Ms. HOLTZMAN. What's going to happen in those other places?

Mr. CROSLAND. Rather than taking all of the bite out of the big apple, it will come out from all over the country. It will be spread out throughout the United States, so that your reduction will not be 25 percent in New York; it will be a spread across the board reduction.

Ms. HOLTZMAN. What will that reduction be, roughly?

Mr. CROSLAND. I don't know, but we are going to be very quick——

Ms. HOLTZMAN. Why is this reduction going into effect?

Mr. CROSLAND. Because there is not the money for the overtime.

Ms. HOLTZMAN. Suppose you hired people instead of paying overtime? Would you have the money to pay for enough inspectors?

Mr. CROSLAND. We have a ceiling problem as to——

Ms. HOLTZMAN. Forget the ceiling problem for a moment.

Mr. CROSLAND. You have to pay people Sundays and holidays. You've got to pay overtime anyway. Even if they work Sunday through Thursday, they get paid premium pay on Sunday.

But for 5 p.m. to 8 a.m., I believe it is, on other days, if you had less overtime, you'd have more people, assuming you didn't have a ceiling.

Ms. HOLTZMAN. What about the use of temporary personnel?

Mr. CROSLAND. It takes a fair amount of training to train persons to be inspectors. I'm not sure what experimentation we've used in the past.

Mr. HALL. Will the chairman yield?

Ms. HOLTZMAN. I'll be happy to yield.

Mr. HALL. As I understand it, you're going to cut down some areas in the larger cities because of monetary reasons?

Mr. CROSLAND. Yes.

We have a ceiling as to the numbers of employees we can have on board. We also have a limited amount of money. If we cannot use the overtime money to hire more employees above the ceiling, but we are running out of the money in some areas because of the numbers of flights that are coming in on Sundays and holidays and after 5 o'clock.

Mr. HALL. Are you running out of people before you run out of money, or are you running out of money before you run out of the number of people you can hire?

Mr. CROSLAND. We're running out of both. If you're going to have someone work overtime, you've got to pay him extra money. We're running out of money to pay him.

But we have a ceiling as to how many people we can have hired in any one time.

Mr. HALL. I can't understand, as the chairperson mentioned, why on earth you would cut down on personnel in New York, where it looks to me like you would need maximum people at all times. I'm not sure I understood the reason why you were cutting down the New York area.

Mr. CROSLAND. The eastern region is running out of money because of their experience in paying overtime.

Mr. HALL. Is there a certain amount of money allocated to the eastern region?

Mr. SAENZ. Yes, sir. The money is allocated to each one of the four regions. The problem that the Immigration Service has is that we have no control over the input that is coming in, the number of people we have to service, the number of planes or the number of passengers on those planes.

Mr. **Hall**. Can you adjust any of that money from region No. 3 back to that eastern region?

Mr. **Crosland**. That's what we're doing.

Mr. **Saenz**. That's what Mr. Crosland says we're in the process of doing at this time.

Ms. **Holtzman**. Would the gentleman yield for a moment?

Mr. **Hall**. Yes.

Ms. **Holtzman**. What are you doing in the 1981 budget to deal with this problem?

Mr. **Saenz**. If I can give you an example. We asked for inspections in the 1981 budget 106 additional positions and $6 million. That was the request that the Immigration Service passed onto the other steps.

Ms. **Holtzman**. What happened to that request?

Mr. **Saenz**. The request that ends up in Congress is for 15 positions and $2.8 million. So between our request——

Ms. **Holtzman**. All for Miami; is that correct?

Mr. **Saenz**. Those 15, yes.

Ms. **Holtzman**. I think we're going to have to do something about this problem, because there's just going to be an intolerable situation in terms of tourists coming to New York.

How will it affect U.S. citizens returning? Will it also affect them?

Mr. **Crosland**. Yes; we use citizen bypass in places. I'm not sure what we're doing in JFK. If we don't, they will have to wait. People in San Francisco—I was out there last week—were backed up in the corridors leading to the inspection area for long periods of time.

Ms. **Holtzman**. Citizens as well?

Mr. **Crosland**. Citizens, aliens, until they get to the point where they split off to the U.S. citizen bypass.

Ms. **Holtzman**. Do you have someone auditing this problem?

We now have three bells. Perhaps you can take a look at this and give us some suggestions as to how this is to be resolved, because I think there is a serious problem. I think it imposes intolerable delays.

We're trying to encourage tourism into the United States to solve some of our balance-of-payments problems. And this is going to throw a monkey wrench into it.

The hearing will be recessed until 2 p.m. tomorrow.

[Whereupon, at 3:25 p.m., the hearing was adjourned, to reconvene at 2 p.m., on Thursday, February 28, 1980.]

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IMMIGRATION AND NATURALIZATION SERVICE OVERSIGHT

FRIDAY, FEBRUARY 28, 1980

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION, REFUGEES, AND
INTERNATIONAL LAW OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met at 2:30 p.m., in room 2237 of the Rayburn House Office Building, Hon. Elizabeth Holtzman (chairwoman of the subcommittee) presiding.

Present: Representatives Holtzman and Fish.

Staff present: Garner J. Cline, Arthur P. Endres, Jr., James J. Schweitzer, counsel; Peter Regis, legislative assistant; and Alexander B. Cook, associate counsel.

Ms. HOLTZMAN. The hearing will resume.

Thank you very much, Mr. Crosland, for your patience.

I would like to concentrate for a moment on the question of the independent comprehensive management analysis of the operations of the Immigration and Naturalization Service that Congress mandated in Public Law 96-132.

Is there someone who's in charge of that?

TESTIMONY OF DAVID CROSLAND, ACTING COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, ACCOMPANIED BY TOM PERRELLI, PAUL SAENZ, AND JOHN KRATKZE

Mr. CROSLAND. Mr. Kratkze is here. Would you like him to come up?

Ms. HOLTZMAN. I think that that would be useful.

Mr. KRATKZE. Good afternoon.

Ms. HOLTZMAN. I understand that you have been appointed by the Attorney General to undertake the independent comprehensive management analysis mandated by law.

Mr. KRATKZE. That's correct.

Ms. HOLTZMAN. Can you tell me something about your background?

Mr. KRATKZE. Yes. Master's degree in business administration. I take this opportunity to put in the record, I was born in Brooklyn. I've been with the Federal Government for approximately 17 years, career employee. Worked for the Department of Defense, Federal Payboard, Interstate Commerce Commission.

Primary experience area has been in the area of information systems. Most recent responsibilities for the last 3 years encompass personnel budget systems, the whole works from a management perspective.

I am assigned to the rolls of Office of Personnel Management and not physically on the rolls of the Department of Justice.

Ms. HOLTZMAN. Now how is this unit going to be organized?

Mr. KRATKZE. Basically, it's going to be organized with a small——

Ms. HOLTZMAN. Wait, let me backtrack.

The statute says that the Attorney General shall make arrangements with an appropriate entity for this analysis.

Mr. KRATKZE. The entity is the President's Management Improvement Council, which is comprised of a loose confederation of private and public officials.

The benefit that I see coming out of that is the capability to tap some private resources. And we intend to do that to assist in areas of the project.

Ms. HOLTZMAN. What are the Government agencies represented on that Council?

Mr. KRATKZE. I'd have to get a list of the names. I'm sorry, I don't know all of the agencies that are involved. But it covers a broad complement.

Office Management and Budget; Office of Personnel Management; the White House; Department of Defense; General Accounting Office; Veterans Administration; Governors of Texas and Florida; City Managers of Dallas, various officials from private industry and labor organizations as well as Universities and Professional Associations.

I know that Mr. Staats is one of the members from GAO, obviously.

Ms. HOLTZMAN. Is OMB on that?

Mr. KRATKZE. OMB is on the Council. Mr. McIntyre and Mr. Campbell from OPM is also on the Council.

Ms. HOLTZMAN. I'm just concerned, given the fact that OMB is on that board and seeing what OMB has done in the past to the Immigration Service, whether the decision to use that board as the entity constitutes compliance with the statute.

I know that there was some discussion last year in the full Judiciary Committee about what "independent" meant.

We originally were going to put it outside of Government and then it was understood that the Attorney General could use the Office of Personnel Management.

That was the only Government entity that was discussed.

I have a question in my mind as to whether or not this entity to which you have now referred, this management council, satisfies the congressional standard and intent.

Mr. Crosland, can you comment on that? Maybe we should ask the Justice Department for a response.

Mr. CROSLAND. I think it's more appropriate for the Justice Department to respond than we. He is independent of us as to OMB.

I think it's more appropriate for Justice or OMB to respond.

Mr. KRATKZE. May I comment on that general topic?

I clearly accepted as a matter of integrity that I have to act as an independent agency.

And while I fully want to work within the channels in the event of substantial disagreement, I would feel called upon to identify that.

Ms. HOLTZMAN. Well, we didn't intend, Mr. Kratkze, for there to be any issue of even negotiation with Government agencies.

We're not talking about substantial disagreement; we're talking about having an independent agency conduct this investigation and conduct this analysis without worrying about whether they're going to get OMB mad, very mad, mildly mad, or anything like that.

We wanted a nonpolitical, nonadministration, nongovernmental analysis—well, it could be governmental, except if it were going to be in any way influenced by OMB's considerations.

And I must say that the fact that you have to have any kind of negotiations with OMB as to what's going to be in the study makes me very concerned.

I'm going to ask the Attorney General to tell me how his decision in this case comports with the Federal requirement.

I'm not sure it does.

Now what role is OMB playing right now in your study? Do you have to report to them?

Mr. **Kratkze.** No; I do not. The reporting channel that is set up right now is to a steering group, to whom I have not yet reported.

Ms. **Holtzman.** Who is on the steering group?

Mr. **Kratkze.** Mr. Shenefield, Commissioner, and an OMB representative, and Mr. Rooney.

Ms. **Holtzman.** Can they tell you to stop doing a certain kind of investigation? Can they require you to change your report?

What authority does the steering committee have with respect to your investigation?

Mr. **Kratkze.** There is no indication of any authority to require me to change a report, nothing on the record at this point that identifies them.

I would also—investigation—I feel my role in this agency is to serve as a catalyst to get things done.

You indicated in your opening statement that 2 years is a long time to wait. I clearly share that. Some of the things that I believe have to be done have already been initiated by Mr. Crosland in terms of accountability of individual people. And I think that some of these have to be institutionalized to be sure that there is a clear accountability on individuals to get stuff corrected.

I would hope that the reporting to all parties concerned would be a matter of reporting that this is something that has been done by INS to alleviate that rather than a study report, typical of a contract report that says, these are the things that have to be done and no action has been taken in the interim.

Ms. **Holtzman.** Mr. Crosland, do you want to comment on your role on the steering committee?

Mr. **Crosland.** Well, as a member of the steering committee, we haven't met as a steering committee. I perceive that the role of Mr. Kratkze and the people that he brings in would be to analzye what we are doing, give us some recommendations and, as an outside party, be able to draw on the observations of other outside parties as well as people within INS, DOJ, and OMB, to make those recommendations.

But I don't perceive that I would direct him as to what he does.

I view my role as providing him with the support necessary to the extent INS is called upon to provide such a support so he can do his job.

Ms. Holtzman. Well, I'd like to know how OMB and the Justice Department view their roles on this.

Let me ask, Mr. Kratkze, do you intend to use outside consultants?

Mr. Kratkze. Yes.

Ms. Holtzman. Can you elaborate?

Mr. Kratkze. I intend to use outside consultants in two ways. Any private resources we can get from clearly established commercial enterprises, and also in a series of reasonably small contracts—I do not want a large-scale contract. I want product-oriented small contracts to deal with specific problem areas.

I probably also want to get some support——

Ms. Holtzman. Do you have a budget?

Mr. Kratkze. I don't have a budget yet. I haven't yet put in a request for it.

Ms. Holtzman. Who has to approve that request for it?

Mr. Kratkze. I'm not even sure at this point. There are some funds that are earmarked in the research area in the Department of Justice, some funds earmarked at OPM for demonstration projects and this sort of thing.

I don't anticipate any sort of difficulty in getting the budget. But I honestly cannot give you—and obviously, as you know, there was an authorization for some money for the accomplishment of this study.

But until I can define the specific tasks that I want to get into, I'd hate to make a commitment as to the amount of budget that was needed.

We're in the process of making that definition.

Ms. Holtzman. We have a very short time to followup with questions because I'm advised now that we have only a few minutes before the second bells will ring. And then we will have a series of 5-minute votes for about 2 hours.

So I just would like, Mr. Kratkze, for you to respond on the record as to how you intend to get the computerization moving, which I think is crucial, how you intend to get the tracking system into place for people coming into this country on a temporary basis. When do you intend to get moving on these projects?

I would like to know in detail why OMB is involved in this study and the extent of its involvement. I now turn over the questioning for the next 3 minutes or so to Congressman Fish.

[The following information was submitted for the record:]

Presidential Documents

Executive Order 12157 of September 14, 1979

President's Management Improvement Council

By the authority vested in me as President by the Constitution of the Unite States of America, in accordance with the Federal Advisory Committee Act J.S.C. App. I], and in order to improve the management effectiveness Executive agencies, it is hereby ordered as follows:

1–1. *Establishment of the Council.*

1–101. There is hereby established the President's Management Improveme Council.

1–102. The Council shall be Cochaired by the Director of the Office Management and Budget and the Director of the Office of Personnel Manag ment. The Council's membership shall consist of representatives from Exec tive agencies and from the non-Federal sector, such as business, industr organized labor, foundations, universities, and State and local governmen The members shall be appointed by the President.

1–2. *Functions of the Council.*

1–201. The Council shall advise the President on significant and critic management problems and issues affecting Executive agencies and Gover ment programs.

1–202. The Council shall work cooperatively with the Comptroller Gener senior program management and administrative officials, and Inspectors Ge eral to provide advice and guidance on specific management improveme projects involving one or more Executive agencies.

1–203. Where feasible, the Council shall advise the Executive agencies in t development of management systems or management techniques to impro the effectiveness and responsiveness of Federal programs.

1–204. The Council shall advise the Executive agencies of solutions to critic management problems, as well as the constraints on management effectiv ness.

1–205. In developing its recommendations, the Council shall utilize the exper ence of the public and private sectors. The Council shall also identify an facilitate the application to Federal programs of appropriate successful sy tems and techniques which have been used elsewhere in the public an private sectors.

1–206. The Cochairmen shall report to the President on the performance of th Council's functions.

1–3. *Administrative Provisions.*

1–301. The Director of the Office of Personnel Management shall, to the exte permitted by law, provide the Council with administrative and staff service support and facilities as may be necessary for the effective performance of i functions.

1–302. Each member of the Council, who is not otherwise a full-time employee of the Federal Government, shall receive no compensation from the United States by virtue of their service on the Council, but all members may receive the transportation and travel expenses, including per diem in lieu of subsistence, authorized by law (5 U.S.C. 5702 and 5703).

1–4. *General Provisions.*

1–401. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act (5 U.S.C. App. I), except that of reporting annually to the Congress, shall be performed by the Director of the Office of Personnel Management in accordance with guidelines and procedures established by the Administrator of General Services.

1–402. The Council shall terminate on December 31, 1980, unless sooner extended.

Jimmy Carter

THE WHITE HOUSE,
September 14, 1979.

[FR Doc. 79-[illegible]
Filed 9-14-79; 3:15 pm]
Billing code 3195-01-M

Editorial Note: The President's memorandum to the heads of executive departments and agencies, dated Sept. 14, 1979, and a White House announcement of Sept. 14, 1979, on the membership of the Council and designation of cochairpersons, is printed in the Weekly Compilation of Presidential Documents (vol. 15–no. 37)

Mr. Fish. Commissioner, obviously, we're not going to get through the questioning, but in preparation for the next time we meet—in your budget process, I understand a priority list is made for your submission to the Department of Justice, listing various components of personnel requests such as basic and additional positions according to your priorities as funds become available.

I would assume that you have such a priority list for fiscal year 1981 and if so, could you supply us with the list?

Mr. Crosland. We will.

[The following information was submitted for the record:]

IMMIGRATION AND NATURALIZATION SERVICE

Washington, D.C.

September 22, 1980

Below is a list of the six operational priorities that were established in Fiscal Year 1980 and will continue for Fiscal Year 1981:

(1) Follow-up for the Iranian Student Project.
(2a) Strengthening Border Patrol along Southern Border.
(2b) Strengthening Inspection at Major landports and seaports.
(3) Improvements of detention facilities at Miami (Haitians) and New York.
(4) Improvements in INS Records capabilities.
(5) Full support to the Office of Professional Responsibility.
(6) Timely and humane processing of the Cubans.

[Additional information was received concerning program ranking as indicated below:]

Immigration and Naturalization Service
Authorization Request - Fiscal Year 1981

PROGRAM RANKING

RANKING	PROGRAM
1	Inspections Program
2	Border Patrol Program (Immediate Border)
3	Adjudications Operations
4	Naturalization Operations
5	Records Program
6	Information Services
7	Executive Direction and Control
8	Administrative Services
9	Data Systems
10	Construction and Engineering
11	Communications Systems
12	Detention
13	Deportation
14	Trial Litigation
15	Judicial Review
16	Anti-Smuggling Program
17	Investigations Program
18	Overseas
19	Alien Documentation Program (ADIT)
20	Intelligence
21	Border Patrol Program (Other Than Border)
22	Status Verification
23	Training
24	Statistics Program
25	Research & Development

Mr. FISH. I hope it indicates your top priorities on the budget request.

Well, as time does allow, when you and I left off yesterday, were discussing the fact that the Congress appropriated funds for 495 additional border patrol personnel for fiscal year 1980. You indicated that 301 positions have been allowed by OMB.

Is that a correct statement with respect to the additional members that have been allowed?

Mr. CROSLAND. Yes. If you take into account that there is reduction of 39 interior positions, the net effect is 301 out of the 495.

Mr. FISH. And OMB specified that these cuts would come from the border patrol?

Mr. CROSLAND. Yes.

Mr. FISH. They did? How many of the 301 have been filled so far at this point in the fiscal year?

Mr. CROSLAND. Roughly 180, I guess.

Mr. FISH. 180.

Mr. CROSLAND. Seventy-one, forty-eight, and forty-five. And we expect that all 301 should be filled by May 26, 1980, and some of these will be in training at the academy.

Mr. FISH. Even when the 301 positions are fully operational, is it not a correct statement that the strength of the border patrol on the border and in the interior will still be less than it was in fiscal 1979?

That is a correct statement, isn't it? A plus of 24 on the border minus 39 in the interior?

Mr. CROSLAND. I'm told it is.

Mr. FISH. Is it not true that your projection for fiscal 1982 is the same as fiscal 1981?

Mr. CROSLAND. 1982?

Mr. FISH. Yes.

Mr. CROSLAND. Yes.

Mr. FISH. So we'll go into your projections. Fiscal 1982 is in worse shape than fiscal year 1979.

Well, I guess we'd better stop with that.

Ms. HOLTZMAN. Well, we will have to resume the hearing at a future time, and we may want to submit written questions in the interim.

I understand that there is a witness, Mr. Milhollan, who is the Chairman of the Board of Immigration Appeals.

Without objection, his testimony will be submitted for the record and any questions we will submit in writing.

[The statement follows:]

Department of Justice

STATEMENT

OF

DAVID L. MILHOLLAN
CHAIRMAN
BOARD OF IMMIGRATION APPEALS

BEFORE

THE

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON IMMIGRATION, REFUGEES AND INTERNATIONAL LAW
HOUSE OF REPRESENTATIVES

CONCERNING

DOJ AUTHORIZATION - BIA

ON

FEBRUARY 28, 1980

Madam Chairwoman, Members of the Committee, I appreciate this opportunity to appear before you today to testify regarding the performance of the fuctions of the Board of Immigration Appeals and the discharge of its responsibilities relative to the Immigration and Nationality Act which have been delegated to the Board under Title 8, Code of Federal Regulations, Parts 3 and 292.

As you know, the Board is composed of a Chairman and four Board Members. An Executive Assistant/Chief Attorney Examiner who is directly responsible to the Chairman assists in carrying out the Board's responsibilities. He is also available by regulation to serve as an Alternate Board Member when necessary. The Board has an authorized supporting staff of 41 employees which is composed of an Administrative Officer, sixteen attorney examiners and eighteen secretarial and clerical personnel. Presently, the Board is in the process of filling two staff attorney positions and two secretarial positions in order to achieve full strength.

The Board performs the quasi-judicial function of providing, in all but a few cases, the final administrative remedy for the review of certain decisions of the Immigration and Naturalization Service. With reference to the few exceptional cases just mentioned, the regulations provide for referral to the Attorney General of individual cases at the direction of the Attorney General, the Chairman, or a majority of the Board or at the request of the Commissioner, Immigration and Naturalization Service. In the past year one case was referred to the Attorney General for review.

The vast majority of appeals to the Board involve orders of deportation rendered in formal due process hearings by Immigration Judges across the nation. The Board also reviews appeals from orders of Immigration Judges involving the exclusion of aliens applying for admission to the United States. Other cases involve appeals from orders of District Directors of the Immigration and Naturalization Service denying visa petitions for immigrant status on behalf of close relatives of United States citizens and permanent resident aliens, and appeals from District Directors' decisions involving administrative fines. In addition, the Board interprets the immigration laws and establishes guidelines for the exercise of the Attorney General's discretion in connection with various forms of relief from deportation. These include applications for adjustment of status, suspension of deportation and voluntary departure. Further, the Board strives to carry out the Congressional mandate that the immigration laws receive uniform application throughout the United States. The Board also has authority, with the approval of the Attorney General, to prescribe rules governing proceedings before it, and to regulate the conduct of -- and disbar or suspend for cause -- attorneys, accredited representatives of recognized organizations and others who appear in a representative capacity before the Board and the Service. The Board issued one decision in fiscal 1979 which involved disbarment proceedings against an attorney.

Finally, the Board renders decisions on applications by organizations and invididuals for recognition and accreditation seeking to practice before the Board and the Service. In fiscal 1979, the Board acted on 36 applications for recognition by organizations and 43 applications for accreditation by individuals desiring to represent others before the Board and the Service.

In fiscal year 1979, the Board docketed 2,570 cases involving 2,934 aliens. In this same period it rendered decisions in 2,395 cases involving 2,710 aliens and more than 3,250 issues. Of these decisions approximately 57 were designated for publication as precedents. Oral arguments were heard in 287 cases at the request of one of the parties, usually the alien respondent in deportation proceedings or the applicant in exclusion proceedings or the petitioner in visa petition proceedings.

Estimating the Board's workload is difficult because the number of appeals depend entirely upon the nature of the decisions rendered by the various Immigration and Naturalization District Directors and the Immigration Judges and the reactions of the parties to these decisions. It is estimated, however, that in view of the Board's experience in past years, it will docket approximately 2,500 cases in FY 81.

Appeals from Board decisions in deportation proceedings are directed to the United States Courts of Appeals, bypassing the United States District Courts. At the beginning of fiscal year 1979, 363 appeals from final orders of deportation were pending in the United States Courts of Appeals for the various Circuits. In that year the appellate courts upheld Board decisions in 171 cases and reversed or remanded in 18 cases. Another 56 appeals before the United States Courts of Appeals were withdrawn by the appellants. At the end of fiscal year 1979, 391 appeals from final orders of deportation were pending in the Courts of Appeals.

On November 19, 1979, the Board moved its offices from 521 12th Street, N.W., Washington, D.C., to its present address, 5203 Leesburg Pike, Falls Church, Virginia 22041. The Board is located on the 16th Floor of 2-Skyline Place.

In 1978, the Board assumed the task of managing the publication of its precedent decisions and the precedent decisions of the Immigration and Naturalization Service. Formerly, this activity was the responsibility of the Immigration and Naturalization Service. The most significant improvement has been the reduction of processing time from approximately seven months to 28 days from the date of designation of a decision for publication to the date it becomes available to the Government and the public. It should be pointed out that this task is being accomplished without detracting from the Board's primary mission and without additional cost to the Government. It is anticipated that bound volumes of a number of existing interim precedent decisions will be made available for distribution in the Spring of this year.

In the last four years, the Board has developed and refined an intensive in-house training program for new attorneys which combines a comprehensive study of immigration law and procedures under the close supervision of an experienced staff attorney and the assignment of active cases in a "learn by doing" environment. This program is supplemented by enrolling new attorneys in Professor Charles Gordon's course in immigration and nationality law and procedures at Georgetown University Law Center. The Board's training efforts have enabled staff attorneys with no prior experience in this highly specialized field of law to handle the most sophisticated cases in a relatively short period of time.

In the area of office management, the Board has acquired word processing systems and related equipment. The use of this equipment has meant a very significant improvement in the accuracy of the decisions and the speed with which they are issued. Not only has it had a favorable impact on the productivity and the quality of decisions, but has been an impressive morale factor. We note that this has been accomplished within the figure budgeted for equipment.

I would be pleased to answer any questions you may have.

David L. Milhollan, Chairman, Board of Immigration Appeals.

Born August 24, 1932, Omaha, Nebraska.

Received Ph.B. degree from the University of North Dakota, and J.D. degree from the University of North Dakota Law School.

Served on the Editorial Staff of West Publishing Company, St. Paul, Minnesota, for three years. Appointed Special Assistant Attorney General, State of North Dakota, 1959, and Trial Attorney for the State Highway Department in 1960. Served as Municipal Judge, City of Bismarck, North Dakota, from 1962 to 1970, and engaged in parttime practice of law. Became General Attorney in the Office of General Counsel, Immigration and Naturalization Service, in July, 1970, and served in that capacity until February 2, 1975, when the present position was assumed.

Has been admitted to the Bar, State of North Dakota, and admitted to practice in the United States District Court for the District of North Dakota, and the United States Court of Appeals, Eighth Circuit.

The witness is married and has five children.

[Whereupon, at 3 p.m., the hearing was adjourned.]

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IMMIGRATION AND NATURALIZATION SERVICE OVERSIGHT

WEDNESDAY, MARCH 12, 1980

House of Representatives,
Subcommittee on Immigration, Refugees,
and International Law
of the Committee on the Judiciary,
Washington, D.C.

The subcommittee met at 10:45 a.m. in room 2237 of the Rayburn House Office Building, Hon. Elizabeth Holtzman (chairwoman of the subcommittee) presiding.

Present: Representatives Holtzman, Hall, Fish, Butler, and Lungren.

Staff present: Garner J. Cline, Arthur P. Endres, Jr., James J. Schweitzer, counsel; Peter Regis, legislative assistant; and Alexander B. Cook, associate counsel.

Ms. **Holtzman.** The subcommittee will continue its hearings on the Immigration and Naturalization Service in connection with the 1981 authorization. Our witnesses today will be Kevin Rooney, the Assistant Attorney General for Administration, and David Crosland, Acting Commissioner of the INS.

TESTIMONY OF KEVIN ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION, DEPARTMENT OF MANAGEMENT DIVISION, ACCOMPANIED BY DAVID CROSLAND, ACTING COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE; TOM PERRELLI, AND PAUL SAENZ, INS

Ms. **Holtzman.** Mr. Rooney, do you have a prepared statement?

Mr. **Rooney.** Yes; would you like me to read it or submit it?

Ms. **Holtzman.** Without objection the text of the statement will be included in the record, and you may summarize it.

[The full statement follows:]

STATEMENT BY

KEVIN D. ROONEY

ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION

DEPARTMENT OF JUSTICE

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION, REFUGEES

AND INTERNATIONAL LAW,

HOUSE JUDICIARY COMMITTEE

MARCH 12, 1980

Ms. Holtzman and Members of the Subcommittee:

I am pleased to appear before you today with other Department of Justice officials to address your concerns relating to the Immigration and Naturalization Service (INS) in the conduct of your oversight function. I have been asked to discuss the role of the Department with regard to the INS budget, INS management practices, and the INS programs generally. I shall be happy to discuss any issues you wish to present in these areas and offer the following overview.

As the Acting Commissioner has discussed with you on this and prior occasions, we in the Department share your interest in improving the delivery of the INS service and enforcement programs, and continue to welcome your committee's leadership and your assistance in our efforts. We are well aware of the complex problems confronting the Department in this area and will continue to address them as vigorously as we can.

I will not reiterate here the several initiatives Mr. Crosland has outlined in his testimony over the last several days. I will attempt, however, to outline those areas where the Department has been actively involved.

As you know, there is a continuing concern, highlighted by the House Government Operations Committee, with regard to automation within

INS. All efforts are being made to ensure a close working relationship between the Department and INS, including the efforts of the management improvement project, to develop a sound systems plan to meet the criteria established by the Government Operations Committee and, principally, to proceed as expeditiously as possible with the automation of INS service systems.

As the senior management advisor to the Attorney General, I am particularly concerned with the effectiveness and integrity of INS management practices and procedures. While the principal role of Department staff, with limited resources, is targeted toward oversight and policy review of bureau management and administrative programs, we have now initiated an active participation with INS in reviewing existing support operations, particularly with regard to the personnel, procurement, and financial management programs. Since effective administration is critical to the success of the substantive programs of any agency, we are optimistic that both INS and the Department will benefit directly from these efforts.

A major function of the Department with regard to its component organizations is the Attorney General's involvement in the budget process. Last year, as you will recall, I outlined to you the process by which Attorney General decisions are made on the operating component resource levels. The critical elements in this process are not only the allocation of resources but also the allocation of priorities, particularly in view of the necessary fiscal constraints required to approach a balanced Federal budget.

In developing with INS its share of the Department's budget, particular attention has been given to the inspections program and the border patrol program. An additional 15 positions, but more importantly 86 workyears, have been added for the inspections program. Additional resources have also been requested to handle the increased number of Indochinese refugees and to complete the rehabilitation of the Port Isabel Service Processing Center. These are indeed high priority items.

With regard to the Border Patrol, of particular interest to this Committee and the Department, our 1981 request represents a decrease of 160 positions from the 1980 authorized level. While the 1980 Congressional add-on provided 456 positions for the Border Patrol (immediate border), funding was provided for 274 additional workyears in 1980. Through internal reprogramming of funds, an additional 216 workyears have been provided for 1980, for a total of 490 over the initial 1980 President's budget request. The 1981 budget would continue these additions and increase again the staffing level by an additional 77 workyears, for a total increase, over the 1980 President's budget request, of 567 workyears on the immediate border, even though we are asking for a reduction of 160 authorized positions. This reduction in authorized positions reflects Administration policy that until the Select Commission on Immigration and Refugee Policy issues its report, greater increases for border enforcement personnel would be premature. This policy is based upon the view that only through agreement on statutory changes to remove the incentives for illegal immigration can the border problem be realistically addressed. The Attorney General, as a member of the Commission, supports this view. The Department, of course, is particularly concerned about the safety of our border enforcement personnel and fully supports INS initiatives to provide for this through maximum utilization of the increased resources.

I would be pleased to discuss these and other issues of concern as you wish. This concludes my formal statement.

Mr. Rooney. To summarize, Ms. Holtzman, I would like to express my appreciation for being invited here this morning to discuss the role of the Department with regard to the INS budget, management practices and INS programs.

As Acting Commissioner Crosland has discussed with you previously during these hearings, we in the Department share your interest in improving INS service to the public and enforcement programs; and we continue to welcome your leadership and assistance in these efforts.

I am not going to reiterate several of the initiatives that INS and the Department have taken. Mr. Crosland has already indicated these to you in his testimony over the last few days.

I would like to briefly outline some of the areas in which we are working closely with INS.

Of great interest to this committee, as well as to the Department, is the data systems problem within INS. This problem also has been highlighted by the House Government Operations Committee. We are now making every effort to insure a close working relationship between INS and the Department to develop a sound system plan, to meet the criteria which Mr. Preyer's subcommittee already has established, and most importantly to proceed as quickly as possible with the automation of INS services systems.

As Assistant Attorney General for Administration and principal management adviser to the Attorney General for all of the Department's programs, I am, of course, particularly concerned with the effectiveness efficiency and integrity of INS management practices and procedures. While the traditional role of the Department with regard to component organizations is to provide oversight and policy review in these areas, we have taken additional initiatives over the past year to work closely with INS in reviewing existing support operations, particularly with the personnel, procurement and financial management programs of the INS.

We feel that helping INS to improve these programs will have a positive impact upon the actual operations of the Service.

Last year in my testimony before you, Ms. Holtzman, I outlined for your subcommittee the Department's budget process, and the manner in which the Attorney General makes budget decisions for the Department's component organizations. The critical elements in this process are not only the allocation of resources, but the allocation of priorities for the Department. Setting priorities is particularly necessary in view of the fiscal restraint that is required as the administration tries to balance the Federal budget.

We have worked closely with INS in developing particular program increases in this year's budget authorization process for the inspections program, to handle the Indochinese refugees, and to complete the rehabilitation of the Port Isabel Service Processing Center.

I would like to make some brief comments about the Border Patrol situation at this point, since I am well aware that this program is of particular interest to this committee. I might add that it is also of considerable interest to the Department.

As you know, our 1981 request represents a decrease of 160 positions from the 1980 authorization level. The congressional add-on by this committee was very helpful last year. There was an increase of 456 positions for the border patrols, immediate border activities and funding was provided for 274 additional work-years in 1980.

Through internal reprograming of funds, INS was able to provide for an additional 216 work-years in 1980, for a total of 490 work-years over the initial 1980 President's budget request.

Our 1981 budget authorization would continue these additions and increase again the actual funding level by an additional 77 work-years, for a total increase over the 1980 President's budget request of 567 work-years on the immediate border, even though we are asking for a reduction of 160 authorized positions.

This of course is significant. This reduction in authorized positions reflects the administration policy which has been discussed with you previously; that is, until the Select Commission on Immigration and Refugee Policy issues its report, greater increases for border enforcement personnel are considered to be premature.

This policy is based upon the view that only through agreement on statutory changes to remove the incentives for illegal immigration can the border control problem be realistically addressed.

The Attorney General, as you know, is a member of the Commission and supports this view.

I may add that the Department is particularly concerned about the safety of our border enforcement personnel and fully supports all INS initiatives to provide for adequate safety for its personnel through maximum utilization of its increased resources.

Madam Chairwoman, that is the extent of my prepared statement. And I would be glad to proceed as you wish.

Ms. HOLTZMAN. Because of time constraints, unless there is objection, I will recognize the gentleman from California first.

Mr. LUNGREN. Thank you, Madam Chairman.

Mr. Rooney, I must confess I am not the one who deals with budgets on a detailed basis; and I am somewhat confused and mystified by what has been said here, both in your spoken testimony and in your statement that was given to us.

As I understood the comments that were made by the Acting Commissioner, and by the Attorney General, prior to this time, it was basically recognized that there has been a reduction in manpower levels for the Border Patrol from what this Congress authorized.

And yet, you now come in and tell me that we have had additional work-years?

I do not understand that jargon. What I would like to know is how many people—human beings—have we put on the border in addition to what we had last year, whether you call them "work-years" or you call them something else?

Mr. ROONEY. I will be glad to respond to that. Mr. Lungren.

Let me just briefly explain, the concept of "work-years."

The funding provided for authorized positions, provides for a number of work-years; for example, if you have 500 people on the border—using the border as an example—you might have money for 400-some-odd actual work-years on the border; because even if you had an authorized level for 500 positions some of those positions would remain vacant until they are fully staffed.

What we have agreed to do with INS is to reprogram funds from other areas within INS to the border patrol program, so that there could be an increased number of work-years devoted to the border. This has the effect of permitting more people to function on the border.

And even though we are asking for a reduction in the authorized positions, we are able to more fully fund the available positions. In fact, as I understand it—maybe Mr. Crosland and his staff can be more specific about it—prior to this, there had been approximately 88 percent to 90 percent of the actual strength in relation with the positions.

And they have been able to increase the actual on-board strength to what is the Government-wide average of 95 to 96 percent. This is the basis of the percentage used in providing estimates for the budget.

Mr. Lungren. That's my next question:

You say the 1980 congressional add-on provided for 456 positions, but funding was only provided for 274 additional work-years.

Well, frankly, we were working with the information given to us by the Justice Department when we made the request for additional appropriations. It was our understanding, or at least my understanding and those that I worked with, that that would actually be funding for 495 additional positions.

If that is not the case, I would certainly like to know what the case is, so when we approve 495 positions based on information we have from the Justice Department—think that that meant 495 positions to be filled by people—that we don't provide funds for 274 people.

Mr. Rooney. Mr. Lungren, in any year in which you initially provide for a new program or new resources the actual workyears level of funding, that is, paying salaries, is going to be less because of the time it takes to get people on board. That would have accounted for why there was only 274 work-years.

Now a continuation of those 450-some-odd-positions in 1981 would have required a need for additional funds to fully provide for paying the salaries for an entire year rather than a portion of one year.

Mr. Lungren. Is that going to be the case?

Because we heard testimony that they didn't hire for all those positions, because they were told by OMB that a number of those positions—I think it was 160—would not be approved; so, therefore, don't hire them now, because next year we're not going to fund it.

And that becomes a self-fulfilling prophecy year-in, year-out; and what we hear here is that you don't have enough time to hire all those people in a year. And the reason you don't hire all those people in a year is because you've decided that next year you won't fund them.

And after a while, we just sore of sit by as bystanders—and I would like to try and find out what's going on there?

Mr. Rooney. That is basically correct.

Mr. Lungren. We are bystanders? [Laughter.]

Mr. Rooney. The authorized position reduction was approximately 160 people. And what we have done is to reprogram some money so that we could in effect fill those positions within the available level.

Mr. Lungren. Then the position of the administration still is that any greater increases for border patrol personnel would be premature because we got to wait for the Commission to bring in a year from now recommendations?

Mr. Rooney. That is correct.

Mr. **Lungren.** Well, I just hope that members of the Department stay around to hear the testimony from the U.S. attorney, because I intend to ask him as to whether or not the increase of violence along the border is a product of the fact we don't have enough border patrol officers, and whether we can stand to wait until the report comes in and not worry about the violence we are seeing along the border. Thank you.

Mr. **Crosland.** Ms. Holtzman, I wonder if I might just respond in numbers because of the workyears?

Ms. **Holtzman.** Yes?

Mr. **Crosland.** I am not disputing the work-years. But I understand the position a little better.

In 1979 Congress authorized 2,731 border patrol positions. We were allowed to fill 2,386; and at the end of the year, we had on board 2,321 bodies.

In 1980, Congress authorized 2,915 positions in border patrol; however, we were allowed to fill 2,798; and we expect to have on board at the end of the year, 2,621.

In 1981, we are requesting 2,716 positions with ability to fill 2,599; and we would expect to have on board at the end of the year if Congress approves this request, 2,716.

So there is a pattern of Congress authorizing more than have been filled—allowed to be filled—but there's also a pattern each year of our increasing the numbers of people, and the figures.

Mr. **Lungren.** I wish to ask just one question: You say you are "allowed"—who allows it?

Mr. **Crosland.** OMB.

Mr. **Lungren.** OMB makes the decision? Thank you.

Ms. **Holtzman.** Mr. Rooney, let me go to another area, that is, the extent to which Immigration Service has received the support it needs both from Department of Justice and OMB. I would like to go first to the issue of inspections.

The Immigration Service asked for 106 new positions with regard to inspections. The Department of Justice, in its submission to OMB, cut that request to zero.

OMB granted an additional 15 positions for inspectors, all to be at the Miami Airport.

Now, the fact of the matter is that the number of people entering the United States has increased dramatically in the past few years. The fact of the matter is that this budget contemplates a 25-percent decrease in the number of people at JFK Airport processing visitors to the United States on holidays and on weekends.

The fact of the matter is that this is going to create an enormous obstacle, not only to the reentry of U.S. citizens, but to the attractiveness of travel by foreigners to the United States.

Can you explain against that background why Department of Justice recommended zero in terms of additional inspectors to OMB.

Mr. **Rooney.** I will attempt to, Ms. Holtzman. I am not familiar with all of the details.

But I think, the work-year concept is critical, because it represents funding for the number of people that we can have actually working in any given program area.

I do not have the figures before me for what the request was to OMB, or what INS request was to the Department with regard to work-years.

However, and this is a point that I tried to make in my prepared statement, that even though we are requesting 15 positions, we are requesting funding for 86 more people, more work-years; that's 86 more people 100 percent of the year.

Ms. Holtzman. Eighty-six more people?

Mr. Rooney. Eighty-six.

Ms. Holtzman. For inspection work with the INS?

Mr. Rooney. I believe that is correct.

Ms. Holtzman. Just for the record, I want to tell you that the increase in admissions from fiscal years 1975 to 1979 in air arrivals was 110 percent; total admission to the United States has increased in the past 4 years from 259.4 million to 274 million.

Where in the budget do we see the increase of 86 people for inspections?

Mr. Rooney. It would be under the inspections program.

Ms. Holtzman. I don't know. All I have here for inspections is 15 additional people for the Miami Airport.

Mr. Rooney. I am looking at the authorization material, Ms. Holtzman.

Ms. Holtzman. OK.

Mr. Rooney. It is here. [Laughter.]

If you look on page 10, which is a page that must be turned sideways, there are 422 work-years in 1980 for the inspection program and our 1981 estimate is 520.

Ms. Holtzman. Is that a reduction?

Mr. Rooney. That is an increase of 98.

Ms. Holtzman. Ninety-eight work-years?

Mr. Rooney. Ninety-eight work-years.

Ms. Holtzman. How are you going to get that? Are people going to work harder?

Mr. Rooney. No. For example, if we had 100 people in a given program, we would ordinarily fund 95 work-years for those 100 positions—in any given situation—you will not have 100 people on board all the time because of attrition, et cetera. It's a standard rule in the budgeting process to fund for 95 work-years.

What we've done is provided more money to allow them to get closer to a fully funded level. And as a result we've increased the moneys to provide for 98 additional work-years.

Ms. Holtzman. We still have only 15 additional people.

Mr. Rooney. No. No.

Let me try to clarify my example a little bit: If you are authorized 100 positions, you can actually have on board as many people as you can pay at the end of a full year the salaries equal to approximately 95 people. Now, you can do that in several ways.

You can have more than 95 people part of the year, so long as over the full year you are paying for 95 salaries.

You can also do that with overtime or any other means.

However, traditionally INS funding levels have not been high enough over the years so that rather than being able to pay for 95 work-years against 100 authorized positions they've been only able to pay for 70, 80, or whatever number of work-years against the 100 positions.

What we are doing here to increase the onboard strength is to provide the funding so that they can actually meet the authorized strength they've already had, rather than requesting significant increases in the authorized levels.

Ms. **Holtzman**. Would you give us the number of people that means? The number of actual people?

Mr. **Rooney**. I am sure we can provide that; I don't have it, Ms. Holtzman.

Ms. **Holtzman**. I mean, the work-year concept is an interesting concept; but just tell us how many people you had last year doing inspections, and how many people you will have under this new budget doing inspections—that's really what we'd like.

Mr. **Rooney**. Yes.

Ms. **Holtzman**. Not work-years; people.

Mr. **Rooney**. That's the actual question we ask in our internal review; that's why we have found this to be an effective mechanism, without confronting OMB to increase the actual on board strength.

We can provide that; I don't have it, but Mr. Crosland does.

Ms. **Holtzman**. We would like to have that.

The same with regard to detention facilities.

I was very disturbed by my personal inspection of the detention facilities in Brooklyn. About 25 percent of the people who are detained by the INS wind up staying in the detention facility more than 2 days.

At the detention facility in Brooklyn there is only minimal recreation sometimes for weeks on end. People can't go outside. They can't lie down other than on tables or the floor. The facility is not what we would even consider adequate for people incarcerated in prison. And these are people who have not committed a crime.

Now, for detention, OMB cut 10 positions. And I don't see any effort in this budget to bring the detention facilities to the point that would even meet Bureau of Prisons standards.

Can you explain why nothing was requested in this area?

Mr. **Rooney**. I do not have a specific explanation for that, Ms. Holtzman.

Ms. **Holtzman**. Do you review it? Do you know that the detention facilities don't meet Bureau of Prisons standards? Do you know what plan you have for achieving those standards, how much it will cost us? Do you address this?

Mr. **Rooney**. Yes; we do. I do not have the specific materials to be responsive to that.

However, I do know that the detention program was not as high a priority in competing for the dollars as some of the other programs we have talked about. But if you will allow me just a moment here to see if I do happen to have any materials.

Ms. **Holtzman**. I would like to know what you plan to do about that.

Let's go to the investigations issue. I think we have the same number of investigators now as we had on board 20 years ago. INS asked for 20 additional people, and Department of Justice and OMB gave zero.

In hearings of the Select Commission on Immigration and Refugee Policy which I chaired in New York there were serious questions raised by people associated with the U.S. attorney in the Organized Crime Task Force about the effectiveness, training, and adequacy of the investigations staff.

Can you explain to me why no additional moneys were provided for investigations, and how you intend to approach the issue of improving effectiveness and adequacy of the investigations by the INS?

I am sure you are aware of the fact, for example, that 131 Iranian diplomats have disappeared—nobody knows where they are—among other things.

Mr. **Rooney**. Ms. Holtzman, the example you cite, which is one I am aware of, was not considered during the preparation of the request.

But my candid response is that the request for 20 more investigators was not considered as high enough in our priorities to include it within the dollar amounts that the Attorney General requested from OMB.

It was, as I recall, not considered a high enough priority to appeal in comparison with some of the other needed resources. All of our programs are competing for resources and we frankly put more of our horsepower behind some of the more critical requests for the larger increases.

Ms. **Holtzman**. And which programs are those?

Mr. **Rooney**. Particularly the border patrol program.

Ms. **Holtzman**. The border patrol program?

Mr. Lungren and I seem to have the same view on that: Despite the fact that the Congress authorized a substantial increase in the numbers, those positions were not in fact filled; and now we're cutting back in this budget.

I just want briefly to touch on one other item, and that is records. As we know, recordkeeping at INS is a disaster. I see DOJ in this case understood the problem and recommended an increase of 115 positions and $5½ million. OMB cut this down to 5 positions.

Can you comment on OMB's actions? Was there any appeal made? How hard did you fight?

Mr. **Rooney**. There is an appeal process. I frankly do not recall the records area being appealed by INS or the Department.

Again, we in the Department are confronted with appealing for several other resources. We did put the strength of our appeal within INS on the border patrol. And I believe we forwarded some appeal request in the area of records, but I don't recall what the specifics were.

But the data systems aspect of the records programs is all tied up with the hold that Congressman Preyer has put on the procurement of hardware. The Attorney General made it quite clear to OMB that while he was not requesting additional resources in this area because there was no way we could spend the available resources; that once the freeze was lifted, or we met all the requirements we had to, to go forward with the systems, that he expected to request additional funding for automation in 1981.

Ms. **Holtzman**. The gentleman from New York?

Mr. **Fish**. Mr. Rooney, in the budget for 1981 before us there are a number of cuts in Justice Department personnel to 1,238. Cuts for the Service amount to 21 percent of the entire cuts imposed on the Department. We have had the Acting Commissioner's testimony as to the enormous increase in inspections, adjudication, naturalization, records mentioned by the Chair, apprehensions—all of this has gone up steadily.

Can you explain, in light of the pressure on the personnel, why almost 21 percent of the Department's reductions came from the Service?

Mr. Rooney. I will attempt to, Mr. Fish. There are probably two factors which I think are operative here: One is that the Department did not request any reductions in its attorney strength, that is, the traditional litigative function, the criminal prosecutor function. In effect, this places the burden for any reduction due to fiscal constraints on our five bureaus—FBI, DEA, Bureau of Prisons, INS, and the Marshal's Service.

The reduction in INS, I believe with the exception of the Bureau of Prisons, is the smallest of the bureaus—not that that is any justification for it; but there are significant decreases in the FBI and the Marshal's Service; DEA is actually smaller than INS.

INS is the second-largest organization in the Department, next to the FBI. And I think proportionally an argument can be made that if there are reductions, INS would take the second-largest share.

In addition it is clear that it is administration policy not to substantially increase resources on the border prior to the Commission report. Such a policy determination does impact on the additions provided by this subcommittee and Congress last year.

Mr. Fish. Let's talk about that a minute: The Commission, on which both Ms. Holtzman and I serve, is due to make its report to the Congress and the President at the end of March 1981.

Authorizing committees, as you know, in the Congress are supposed to—unless they get special permission—have their reports ready before the end of March for the respective budget committees of the House.

Just mechanically, if your proposals are sent to us by March 31, 1981, and indeed were received on time, it would, as you well know, be months before it could get through the legislative mill.

So for practical purposes it would not be acted on in time to impact in calendar 1981.

So it seems to me you've got to face the fact that a judgment should be made that the border, if allowed to remain in the state it is today, will be allowed to remain without any change for at least 2 years.

There's a lot of talk about 1 year; that's why I want to make it clear we are, in practical terms, talking 2 years. We've given up, in other words, on any action that could improve the situation for a full 2 years. Do you have any argument as to that statement?

Mr. Rooney. No, I do not. I really don't, Mr. Fish.

I understand the Congress position in authorizing additional funding levels and in meeting the deadlines of the budget process. We, of course, have taken the position that if indeed there is a positive finding by the Commission to increase the personnel strengths of INS that we would come to the Congress with a proposal to do that.

Mr. Fish. Has it crossed your mind that perhaps the Select Commission is not going to address itself to the manpower, necessary for effective border patrol?

Mr. Rooney. My understanding is that the Commission would be addressing the incentives to immigration and, if indeed, there is no reduction in the positive incentive to come into the country, that we are confronted with a continuation of the existing policy; then perhaps resources would be required.

Mr. Fish. I presume, because the Attorney General is a member of the Commission, that the people in the Department and the service have been following the Commission's deliberations, as I have; and I have not heard of it being presented with a brandnew idea yet.

It's a matter of selecting from a half-dozen options which have been before us since the President sent his message to the Congress in 1977—border, employer sanctions, I.D. cards, and so forth. If anybody's got a new idea, I'd like to know what it is. Certainly the Commission would.

We all agreed that by itself better control of the border is no answer, but nobody says there are other things we could do instead of that. And certainly, if we move towards any form of amnesty, it's going to be contingent on a far better inplace border patrol.

From what I hear, in late 1981, they will come up with proposals that we beef up the border, and then maybe 6-months later you'll start hiring people, and it will be well into 1982 before you have reached the complement—whether you are talking individuals or work-years.

You know, I just don't see what the difficulty is in facing the reality here.

And the President is now looking for further reductions in the 1981 budget, beyond the ones that face the budget before us.

Do you happen to have any information for us as to what further reductions would be made in DOJ personnel in response to the President's call to find several billion dollars to cover the proposed deficit?

Mr. Rooney. We have not received any decisions from OMB—at least, they will be the decisions of the President; but we have not received even the decisions of what OMB is recommending.

Mr. Fish. Did they ask you to make recommendations to them?

Mr. Rooney. They asked the Attorney General to present a series of options. The only thing I can say is I do not expect—because to the best of my knowledge it has not been included in the discussion—any reductions in personnel level.

Mr. Fish. For the INS?

Mr. Rooney. That would be absolutely correct. And I believe it is correct across the Department.

Mr. Fish. Can we just leave it that way—personnel—and not find out it means you are going to cut workyears or feet or——

[Laughter.]

I mean, I am talking about live positions and salaries, not talking about cutting the budget, leaving personnel at one level and pulling and chopping out money so that positions aren't filled?

Mr. Rooney. It is my understanding as discussions have gone on so far, there would not be any direct reduction of the money involved in employee compensation, which in effect is a positive answer to your question.

Mr. Fish. That's very good news to hear.

I understand and I am now referring to a single page dated February 26, 1980—is that correct?—entitled Fiscal Year 1981 Requested Increases in Positions and Dollars for DOJ—OMB—Congress by Decisional Unit.

As I read across, the DOJ was requested by the Service for 101 extra positions in the immediate border patrol positions, and it would appear the Department increased that by 50; the request to OMB is 151.

Is that accurate?

Mr. Rooney. Yes.

Mr. Fish. Then it went to OMB from the Department of Justice, the request for 151 additional positions in the immediate border patrol; and not only were those not honored but 160 were cut beyond that.

Is that correct?

Mr. Rooney. That is correct.

Ms. Holtzman. The time of the gentleman has expired. The gentleman from Texas?

Mr. Hall. Thank you, Madam Chairman.

Mr. Rooney, as I understand it, you are the Assistant Attorney General for Justice Management Division, which I assume means you have very close communication with the OMB and INS?

Mr. Rooney. That is correct, Mr. Hall.

Mr. Hall. On the information I have here—and I have been a member of this committee now for a year and a half—and I get more confused everytime it meets as to what is being accomplished—it appears OMB makes a request, INS makes a request; I believe you've just stated there's been no decision from OMB even as to the recommendations.

Is that a correct statement?

Mr. Rooney. With regard to the budget cuts in 1981?

Mr. Hall. Yes.

Mr. Rooney. We have not received any decisions from them.

Mr. Hall. How long have they had that matter, that they are working on?

Mr. Rooney. They requested the Department to look for various options a week ago last Friday.

Mr. Hall. By the way, we had a hearing here last week in which it was developed that INS is now undergoing 43 different audits, 42 or 43—has your Justice Management Division requested an audit of INS?

Mr. Rooney. Out of those 43, it is my understanding that 7 of them involve audits or reviews conducted or being conducted by DOJ Management Division. I believe there may be two more. I don't have a list of them. There are Department-wide reviews of things such as procurement of furniture, in response to some recent Government-wide initiatives.

Mr. Hall. So 9 of the 43——

Mr. Rooney. A total of seven.

Mr. Hall. A total of 7 of the 43 are coming more or less from your area, your Division?

Mr. Rooney. That is my understanding, Mr. Hall.

Mr. Hall. Well, you are head of that Division, are you not?

Mr. Rooney. That is correct.

Mr. Hall. You say that is your understanding: There are seven audits; is that a fact—seven audits—or could there be more?

Mr. Rooney. I don't have that list in front of me which the committee has.

Mr. Hall. Who authorized those seven audits from Justice Management, of INS?

Mr. Rooney. Without the list, I can't tell you the specifics on each one. There are two or three ways in which we conduct them. There are audits which are conducted by the Internal Auditor of the Department, housed within Justice Management Division; and, as with any internal auditor or inspector general's staff in Government, they can initiate audits in any areas in which there have been issues raised or as part of the continuing review of the operation of the Department.

Some of them were in that regard.

Mr. Hall. Do you have the final authority as to those seven audits that are now ongoing in the INS?

Mr. Rooney. I have the final authority to some extent, Mr. Hall, with regard to internal audits, however, I am not in a position to stop those being conducted by the internal audit staff, without serious cause; because interrupting an audit would be inconsistent with the role of a Federal Government internal audit operation.

Mr. Hall. I have just been handed some information.

DOJ, there is an audit on management and utilization of aircraft by DOJ; are you familiar with that?

Mr. Rooney. Yes, I am.

That audit is being done throughout all of our enforcement organizations as a continuing review by the internal auditor, looking at that program.

Mr. Hall. Then a naturalization and citizenship audit; there is an INS alien antismuggling program.

Now, what on earth do you need to audit about the antismuggling program that you don't know from the facts as they have been presented to you about what is happening on the border of this country today?

Mr. Rooney. The internal audit or any internal evaluation is conducted for two reasons.

One, an audit is conducted to determine, as part of a continuing process, the compliance with Federal regulations, the integrity and efficiency and effectiveness, et cetera, of the operation.

An internal evaluation is conducted at the behest of the Attorney General or senior department official who wishes to see what the impact of those programs are.

Mr. Hall. When did that program start? When did that particular audit start, do you know?

Mr. Rooney. I do not, but I can provide that for you.

Mr. Hall. You've got an audit on the border patrol operations about 20 percent completed; as a matter of fact the alien antismuggling program is 90 percent completed.

What are you auditing about the border patrol operation?

Mr. Rooney. The border patrol operation audit, as I understand, is being done as a survey at this time, which in effect relates to conducting a quick review to look at specific issues for departmental compliance?

Mr. Hall. What does all that mean? Just speak English. I don't understand what you just said. I have no idea, so just tell me.

Mr. Rooney. All right.

Mr. Hall. Tell me again what a border patrol audit is?

Mr. Rooney. A border patrol audit would be a review of the operating procedure. This is an audit, not an evaluation, a review of the operating procedures established by law or regulation for that program, to determine whether or not the program is being operated in compliance with the law or regulations; and as to whether any financial operations within that program are being conducted properly, and in accordance with the standards established by the General Accounting Office; and to determine the efficiency and effectiveness of that program in relation to those standards.

Mr. HALL. How long has that audit been ongoing?

Mr. ROONEY. That audit, I believe, Mr. Hall—I can't say specifically; but I believe it was initiated this year.

It is an audit survey, which is a quick study of a program to determine whether an extensive audit should be done according to GAO standards.

Mr. HALL. To determine whether or not there's going to be an audit?

Mr. ROONEY. Yes. It's part of the GAO guidelines that every Department is required to follow.

Mr. HALL. Now, another audit is a preliminary examination of the motor vehicle fleet management program. That just started. What did that deal with?

Mr. ROONEY. That, again, is an internal audit, a review of the management of the internal INS, in this instance, motor vehicle fleet program.

Mr. HALL. Who instituted that?

Mr. ROONEY. Internal audit staff.

Mr. HALL. Are you in charge of the internal audit staff?

Mr. ROONEY. They report to me.

Mr. HALL. I presume you authorized that audit?

Mr. ROONEY. Yes, I did.

Mr. HALL. What are you trying to accomplish by that internal audit?

Mr. ROONEY. As part of the continuing review, Mr. Hall, of all motor vehicle programs in the Department, each agency, Drug Enforcement, FBI, Marshal Service, undergoes one of those audits periodically.

Mr. HALL. How long does it take to complete it before you know whether or not you are going to have to audit?

Mr. ROONEY. That one is an audit; that is not a survey.

Mr. HALL. I see.

You've got as No. 6, a follow up on INS financial management and procurement; what does that deal with? Is that an audit?

Mr. ROONEY. Yes, that is an audit.

Mr. HALL. What are you auditing?

Mr. ROONEY. There was an audit conducted previously on the financial management practices within the INS, which is again part of the requirements of the internal auditor from the GAO.

The audit was done; there were deficiences found; it is incumbent upon the internal auditor to go back and review that after a given period of time.

That's what that is.

Mr. HALL. The seventh one, control and management of property in the Department; is that an audit?

Mr. ROONEY. That is an audit requested Government-wide by GSA and, I believe, GAO.

Mr. HALL. Have you ever had any audits conducted as to see the reasons why we have a continuation in this country of aliens coming in here, and why we can't stop that flow, or we can't in some way, slow up the flow that is coming into this country?

Have we ever audited that problem?

Mr. **Rooney.** I don't believe we have, Mr. Hall, not during my tenure. Frankly, we are dealing in semantics.

Mr. **Hall.** I am not dealing in semantics; I am dealing in facts.

I have been listening to budget summaries. I have been listening to people testify about reducing 160 border patrolmen, when I think it's an atrocious position to take. I keep reading about the detention program Ms. Holtzman mentioned, less 10, in an area where there is a definite need. I see where the Miami Airport—you've added 15—thankfully. I am sure an audit brought that about. [Laughter.]

But we heard testimony last week where you got 43 different audits going on in various areas, and I am just wondering if we are accomplishing what this program set out to accomplish. I am speaking now of INS, primarily.

It looks to me like there is a lack of communication maybe with your area and OMB and INS. I don't think anybody knows what the other person is doing. I think they try to decide what they are doing by having another audit made.

Is there any definitive look at situations occurring in this country today, wherein we are trying to stop this flow of illegal aliens? In these hearings we are having, I am anxious to hear—and I understand Mr. Walsh has got some good information for us—but what are we doing out in the field to try to accomplish some results?

Frankly, I haven't seen a great deal to this point in the last year and a half on this committee. What are we doing?

Mr. **Rooney.** Well, I think Mr. Crosland is in a better position to respond to what INS actually is doing to look at alternative solutions to that problem. I would believe the Select Commission is looking at that. We've had various proposals presented to the Congress before.

I think the critical item, as Mr. Fish indicated, is that he hasn't seen any new initiatives—that may be true. But I think the key part of the Commission's work, at least from my understanding, is to come to some agreement on some of the solutions beyond what the INS is doing now. INS is admittedly short of resources. I think we can only look to the Commission.

Mr. **Hall.** Well, are you doing anything in your Department to try and get the INS more people who can get out in the field and work to try to solve the problem?

Ms. **Holtzman.** The time of the gentleman has expired, but you may answer.

Mr. **Rooney.** Thank you, Ms. Holtzman. I think other than what we have tried to do in the budget process here, some of which has been successful, some of which has not; I think the concept which I was discussing with Ms. Holtzman about increasing the force on the borders, that's one concept, that's one thing we've been doing within tight budget constraints.

Ms. **Holtzman.** The gentleman from Virginia?

Mr. **Butler.** I have no questions, Madame Chairman. I yield my time to the gentleman from Texas if he has a further line he wants to pursue.

Mr. Hall. Thank you. Do you anticipate in the Department of Justice either—I am specifying now your Management Division—do you anticipate that you will authorize any additional audits to be made? Can you think of anything else an audit would cover?

Mr. Rooney. Mr. Hall, I think this is responsive to your concern. We have been trying within the Department to eliminate the number of direct reviews, except where there have been serious questions raised, where it is incumbent upon us to do an internal audit.

However, we are trying to hold back on some of the reviews, except where they are requested by the Commissioner. We have tried to subsume most of our activities under the program Mr. Kratke has initiated within the INS.

Mr. Hall. Do you—I believe I heard it mentioned a moment ago—recommendations were made that there was no appeal made by your Department attempting to get those positions increased—people, persons.

Would it not be a good idea to have Mr. Crosland—and in what he's trying to do, I don't envy him at all; I've told him that publicly and privately—but do you think it would be of any assistance to him and to his office, if maybe there would be a little appeal made occasionally to OMB to try and get more authorizations for people?

You can't solve any problems cutting the number of people on the border—if you know the problem. Now, if you have someone in office who's not familiar with how that border is down there between Texas and Mexico, they can't sit in Washington and solve that problem—no one can. And if they think they can, they are just laboring under a false illusion.

But do you ever really look—as I put it—do you ever really go to bat and try to get this for Mr. Crosland, what he needs to operate efficiently?

Mr. Rooney. Yes.

Mr. Hall. In what way?

Mr. Rooney. Well——

Mr. Hall. What have you done recently? What have you done affirmatively to get those 160 back on board?

Mr. Rooney. Well, initially, as I responded to Ms. Holtzman, we appealed; we asked for more resources of the OMB. We appealed their disapproval of those, as well as disapproval of a further appeal.

Mr. Hall. Is that done by letter to the head of OMB?

Mr. Rooney. That is done for the entire request of the Department. We sit down with the Attorney General, and we focus on the entire request. He makes the decision based on the recommendation of, in this case, Mr. Crosland, the Associate Attorney General, and myself.

Mr. Hall. Was that done with reference to the members, the 160 members, of the border patrol that were cut out on this budget summary?

Mr. Rooney. Yes; it was.

Mr. Hall. Well, I feel a sense of frustration at times, because it appears everytime we have a committee meeting—maybe it's me—I get bogged down in a lot of budget summaries, audits, and things, and I don't see too much being done in appeal. And my idea, the manner in which this authorization would help is out in the field.

I yield back the balance of my time.

Ms. Holtzman. Thank you very much. We have a long list of witnesses ahead of us. We will go to the next witness, and probably bring you back.

Mr. Rooney. I appreciate that. I am going to be able to remain here until noon; I have another hearing to go to then.

Ms. Holtzman. We won't be able to get to you before then, but perhaps another day. Thank you very much.

The next witness we have is Patrick Murphy, president of the Police Foundation. Welcome. We will include your statement, without objection, in the record. The subcommittee is very pleased to have you before us. You have had a very distinguished career in law enforcement, and we welcome any insights you may have with respect to violence on the border.

TESTIMONY OF PATRICK MURPHY, PRESIDENT, POLICE FOUNDATION

Mr. Murphy. Thank you.

I don't have a prepared statement, Congresswoman Holtzman. But I am pleased to be able to report that the Police Foundation has studied the problem of deadly force in seven police departments in the country. We had the opportunity to look intensively at policies, practices, and the controls; and from my previous experience in police departments, I have paid a great deal of attention to the problem of deadly force.

When it becomes an issue in an enforcement agency, it's my view that, besides developing well-thought-out policies about when force should be used by enforcement officers, and under what circumstances that deadly force might be justified, that a training program must follow.

And the emphasis, in my view, is that training at the management level is just as important as training individual officers who would be the ones finding it necessary to resort to the use of force.

I am a great believer in the value of training, but I think training also has its limitations.

Beyond a good training program, incentive systems, disciplinary systems, effective management control devices, are also important.

I don't claim to be anything like an expert concerning border patrol problems, but it is my understanding that one problem is that many officers are young and inexperienced. I do have an opinion about that.

I believe that there is no substitute for experience on the street or in the field; and that in any police department or law enforcement agency, where a very significant number of the officers lack sufficient experience and the benefit of working side by side with more experienced officers, that this can become a problem.

Now, we can certainly make available to the committee materials that we have on the policies and the training programs concerning the use of deadly force and other kinds of force in several police departments in the country; I would be happy to provide that if it would be helpful.

Ms. Holtzman. Thank you very much.

One of the things that concerned me very much was when Commissioner Crosland testified that basically there was no training program with regard to legal matters. You talk about the need for a training program.

Are you talking about the need for an initial training program and a followup training program?

Could you be specific? How many hours need to be devoted initially? How many hours of followup training?

Mr. **Murphy**. Yes.

It is my view in addition to an extensive recruit training, or entry-level-training program, that anybody with responsibilities of a law enforcement officer, whether on the street or to patrol a border, who is ever called upon to make a split-second decision about the use of deadly force, must be kept at a high level of training proficiency.

And so I think a minimum of a week a year of training is essential in addition to the type of training I would assume the officers receive from their individual supervisors on a day to day basis.

And I don't think we should overlook the importance of the training the officer receives on the line, day to day.

To be blunt about it, one of the problems in police work—and it may be a problem in the border patrol—is that there is a tendency on the line to denigrate the training back there at the academy, which is theoretical, and to not relate it to the facts of the job.

That is a serious problem. And I think the training that would be given by supervisors and managers on a day-to-day basis is of critical importance. I do not think any law enforcement agency can justify not providing training with the argument that people must be kept on the line 8 hours a day and therefore, no time is available for training.

The power of the officer, the fact he does deal with human life, is so critical that I think a reasonable degree of training must be continued.

Ms. **Holtzman**. One of the things that strikes me, Mr. Murphy, is I don't see anything in the curriculum with regard to the use of force—when it is to be used, when it is not to be used, and so forth.

Mr. **Murphy**. If an officer is required to carry a weapon, he should handle that weapon a number of times a year. That means he should go to a range, take it out of the holster, load it and unload it.

But it is very important for him to have great familiarity with the weapon and confidence in his ability to use it if he is called upon to use it, because usually that decision will be made in a very short space of time.

But, more important even than proficiency with the weapon, is dealing with the moral and ethical issues of the use of force. And, sadly, many of us in police work have often had to look back on tragic cases and say, why was a life lost? Why did this serious injury occur over a misdemeanor or property felony—or whatever the violation may be, in the case of border patrol?

So I think not only should there be training with the weapon, but serious consideration given to allowing officers to discuss the moral and ethical implications of the use of force. That would be desirable.

Ms. **Holtzman**. You talked about incentive systems, the need for incentive systems, what do you mean by that?

Mr. **Murphy**. One of the problems in municipal police work is civil service tenure and the ability to discipline officers who don't behave, don't carry out policies.

I don't know if that is an issue in border patrol. There is not only the problem of the officer who may be inclined to use excessive force, but there is the fact that people do get into law enforcement work who don't have the maturity, the personality, or judgment. And really, it is a disservice to them not to separate them from the service before they become involved in a tragedy, which could have very serious implications for them and their personalities for the rest of their lives.

A very serious problem in police work today is the problem of stress among police officers; specifically, officers who may kill people, and then have to live with the fact that they made that decision, for the rest of their lives. So, aside from the officer who could be a disciplinary problem, I think there is a very real problem of consistently evaluating whether officers have the personality and maturity for this difficult work. I think it is very difficult work, working under the kinds of pressures which I understand are in existence in southern California.

Ms. HOLTZMAN. Let me just also ask about the problem of lack of experience, that could be great difficulty. How do you go about dealing with that problem?

Mr. MURPHY. Again, I'm not familiar with the personnel issues in the border patrol, but I do know from my own police experience, with the average age of police officers in the patrol function being very low, commanders are constantly reporting the problem of trying to deal with a young officer who just has not had the benefit of enough online service to feel more confident of himself.

And, although I am a great believer in training, I must admit, there is no substitute for the line experience of the officer, in developing his own self-confidence in dealing with these difficult situations. It helps him to know how to deal with others.

Ms. HOLTZMAN. Is there any way to compensate for the lack of experience? Could you have patrols in which you have two people, a younger person and someone more experienced? Is that one way of dealing with it? Are there other concrete approaches?

Mr. MURPHY. Of course, if there were no officers available—and I am not familiar enough with the border patrol—I don't know. But in police departments, the more experienced officers tend to be made detectives; and then assignments become classified—formally or informally—as desirable, or undesirable, dangerous, or safe.

And I know I've been in police departments where the most dangerous parts of the city were the parts being patrolled by the youngest officers. There's something wrong with that. But the older officers may have seniority privileges, and elect to go to safer precincts. Now, I don't know if any of those problems exist in the border patrol. They are probably worth probing.

Ms. HOLTZMAN. Thank you very much. I appreciate that. The gentleman from New York?

Mr. FISH. No questions, thank you.

Mr. HALL. No questions.

Mr. LUNGREN. Thank you. I'll just ask one question:

You have already said a number of times you are not familiar with the border patrol situation. But would you think it is a very good idea to have a situation where you have one officer who at times is confronted with as many as 50 to 100 people that he—himself—is supposed to apprehend and take in?

Mr. Murphy. Just as a hypothetical problem—that sounds like an unreasonable way of dealing with the issue to me. In a similar set of circumstances, my policy would be not to engage in a confrontation, but to call for help. Now, I don't know what the provisions are for calling for help.

Mr. Lungren. You don't have any help to come?

Mr. Murphy. No help? Too far away?

Then we have to think about whether it's better for the officer to walk away. You know, to be extremely blunt about it, it's a macho problem. You put people on the line, and say, enforce the law, protect the border, don't let people cross. For years we thought police officers were never supposed to retreat or regroup. Well, during the tragic riot years, we learned it wasn't the worst thing in the world to take a squad of officers out of a particular street if there were 500 rioters in the street.

Now, I don't know if it applies, but maybe the officer should not be expected to make a confrontation if there is any evidence of potential violence.

I don't know what the circumstances are for getting help. But it might be worth probing whether reorganizing and redeploying in different modes would permit a better solution. On the face of it, it would not seem very reasonable to expect a single officer to be able to control a situation like that without assistance where he is faced with apprehending 50 to 100 people by himself—unless the level of his intelligence is so good that he knows what is going to happen, whether he knows some of the people in the group, or doesn't. His intelligence would suggest how this would all work out.

Mr. Lungren. Thank you.

Mr. Hall. Would the gentleman yield?

Mr. Lungren. I'd be happy to.

Mr. Hall. In Texas we have one riot and one Ranger. [Laughter.]

Ms. Holtzman. Thank you very much, Mr. Murphy. We greatly appreciate your testimony. The next witness is Michael Walsh, the U.S. attorney from San Diego, Calif.

Mr. Walsh, we are particularly pleased to have the benefit of your testimony before us.

TESTIMONY OF MICHAEL WALSH, U.S. ATTORNEY, SAN DIEGO, CALIF.

Ms. Holtzman. Do you have a written statement?

Mr. Walsh. I am sorry; no. I have just some written notes that I am going to talk from, if that would be satisfactory?

Ms. Holtzman. You may proceed.

Mr. Walsh. I had a conversation with Mr. Endres last week, and he suggested perhaps I might chat with you a bit about three or four issues, one being the climate; second, the extent of our prosecutions—successful prosecution—for corruption at the border, and civil rights; the degree of brutality we have experienced at the border; and the nature of our activities and endeavor to do something about it.

And so I thought I would just talk with you a little bit about each of those subjects; and I would invite any of you, consistent with your own procedures, to interrupt me at any time and ask questions. I don't want to talk you to death.

Ms. HOLTZMAN. The procedure will be that we will ask questions afterward.

Mr. WALSH. I will try to be reasonably brief, but on the other hand, I think I know a lot of what you want to know, and I might be able to put it together. A little perspective before I start: I am in my third year as U.S. attorney for the southern district of California. I am not an expert in the macorissues that you are dealing with, but I can tell you what it looks like out there. That has advantages in the sense it graphically portrays matters. It has liabilities in the sense I don't purport to have responsibility for, or understanding of, all the tradeoff's that are obviously involved in the major policy issues.

I have worked very closely, personally, with the border-related problems for the last 30 months, including personally prosecuting border patrol agents for pervasive and systematic brutality. At the same time I have strongly supported the border patrol mission in the area. I know something of the dilemmas and the dimensions of the problem, firsthand, and I have seen a great deal of it up close. Now, the area that I was going to talk to you about is, first of all, the climate at the border.

It seems to me for reasons you are familiar with—and I will explain some—that it's a little schizophrenic. On the one hand, there is a serious and explosive potential to the problem; on the other hand, the job on a day-by-day basis seems to be getting done consistent with the extent it can be done, given the manpower sources and the very intractible nature of the problem.

We are just getting into the most difficult period, that's the March, April, and May period, they are among the heaviest months in terms of apprehensions. As you know, the spring crops and plantings are just getting started. Last year in March and April is when we had extremely serious violence problems, but it led to some initiatives I'll tell you about.

As you know, there's a migration pattern to this whole business. The morale at the border, given the circumstances under which the agents work, seems to me to be surprisingly good. The prosecutions which were undertaken in the southern district of California definitely hurt the esprit de corps. I don't think there's any question about that. Although there was a successful conclusion to those prosecutions, that is, the findings of guilt and circumstances of proof, has helped that somewhat. Whatever the effect is, I think it's localized, that is, the Chula Vista sector.

Apprehension levels, measured on a month-to-month basis, are about at the same level, in fact, they are slightly higher than they were, with approximately the same number of men as previously. So, measured by that test, morale is at least as good, or at least as bad, now, as it was.

A big problem, obviously, is attrition. Our sources tell us that there is an abnormally high amount of looking-around. As you know, it takes about a year for new-hires to come on board. The Chula Vitsa sector has an unusually low experience level: the last time I checked the average experience of the agents in—the busiest sector—was 18 months.

What Mr. Murphy told you—I am also chairman of the Crime Control Commission in San Diego—and what he told you is in many respects true of the border patrol, experienced agents want to get out and move to other areas. There are all kinds of internal procedures, which you're familiar with, where the agents in civil service are given that right. You have the largest and most difficult sector mostly used as a training ground, with the least expeirenced agents; and that's not a phenomenon that's limited to the border patrol. It's a phenomenon generally in police agencies. You've got a lot of pessimism, a lot of resignation, a lot of frustration among a lot of the agents. That's nothing new.

There is a yo-yo effect from the inconsistent signals that come out of what is perceived to be the "Federal Government." On the one hand you have Congress passing, and OMB taking away; and the explanation of "taking away" frequently being, "the problem is hopeless." That's not really the sort of explanation that's calculated to inspire people to great new heights of performance.

Chula Vista is getting additional people, 121 trainees, and 22 support people. You have correctly perceived, just listening to these hearings, some of the problems as to what numbers are in terms of authorization, and what bodies are on the line. Those are frequently quite different. You've got lag-time in just getting people on board; the academy turns out about 48 trainees a month; obviously that is staggered. One of your problems is to keep up with the attrition of new people. That again is a problem in police departments generally.

You've got some paranoia, no question about that, for some of the agents it seems like the whole world, including the U.S. attorney, when I have to prosecute a case like I prosecuted, is against them; that everybody from The New York Times to the local Chicano federation is trying to paint with too broad a brush; that their claim is everybody is corrupt, that somehow the border patrol is a neofascist organization. There's no evidence to support the truth of that claim. As sociologists put it, it may be false, but real in its effect.

A description of climate also requires comment about the Mexican side of the border. You have a much increased level of violence initiated from the Mexican side, some of it by smugglers using diversionary tactics. That's not rhetoric, that's a fact. Some of it is of a more random character, ranging from border gang brutality, which is a very serious problem, to simple incidents of anti-American behavior.

I don't know how much you know about the perspective out there, although I know Ms. Holtzman as a member of the Select Commission knows the outlines as well as I do. Just look at it; you've got this huge unemployment problem in the northern province there, 40–45 percent; you've got Tijuana, a city of a million people growing at the rate of 10 percent a year or more; the average age of the population in Mexico is 15. Tijuana is the jumping-off point. It interfaces across an international boundary that extends, as you know, from the ocean to Texas; it's pretty difficult to patrol it effectively. You've got a whole mix: agricultural workers who've been coming from the same three or four northern provinces for years; and you have youngsters coming across who don't know why they're coming or where they're going, except they know what they are leaving. You have whole families coming across. And you've got push-and-pull factors that have been written about by people who are more articulate than I.

As a result of very serious violence last spring, we rather unilaterally initiated a series of things out of the southern California district. Principally, we sought the cooperation of political officials in Baja, Calif., in a successful endeavor to enlist the assistance on the Mexican side of the border in response to an increasingly violent run of activity.

Hotlines were installed at Border Patrol Headquarters to Mexican Immigration, and I assume, indirectly to the Mexican police. We were running last spring 45 minutes to an hour and a half in terms of getting any response time to violence, including gunshots coming from the Mexican side of the border to the United States. Now at least we get a response, and we get it most of the time in timely fashion, in the first couple of minutes. There's a certain "deterrent effect" when the Mexican police arrive on the scene. They operate on a little different basis than we do in this country.

We have also attempted to cooperate or to enlist Mexican cooperation in dealing with smugglers on their side of the line. This activity which I've worked very hard on, has raised allegations, perhaps true, that we have provided information to Mexican authorities, and it leads to exploitation on their side of the line. It's kind of a no-win proposition, conceptually very sensible; practically we think it's unwise, if exploitation is the product of our information.

We have had a very active series of corruption prosecutions. We have in the last 2 years charged and convicted five Federal officers of bribery or similar offenses relating either to the consenting to the illegal importation of narcotics or aliens. All of our prosecutions in that regard have been successful. I point out that all five of those individuals were U.S. Customs inspectors; they were not INS personnel. We have won all of our cases. They were very large; they only involved one agent in each case, but 17 to 20 persons in a large conspiracy; and they were sent to prison. Unfortunately with one, a gentleman by the name of Trench, we got a 10-year sentence; it has not helped the deterrent effect that he was back on the street 9 months later as a result of the parole policy. I can tell you about the nature of those prosecutions if you wish to ask questions.

It's an enormously difficult task to prove the sort of bribery that we have undertaken to prove. It involves undercover operations, videotape of clandestine meetings, an enormous amount of discretion in the course of the investigation. You have a fixed series of border checkpoints and after a while they figure out where your vantage points are, and what your undercover vehicles look like, and who your informants are. And they are very, very tough prosecutions to bring. They require a lot of cooperation which I would say we have achieved, locally, from Customs, Internal Affairs, the Border Patrol, the antismuggling unit, the Drug Enforcement Administration, the FBI and INS.

We have a lot of ancillary corruption arising out of the situation you have at the border. For example, as you know, the Social Security Administration issues social security cards, and you have to have a social security card in order to work. We see a market developing in those cards. Just for example, we recently arrested a fellow at the port of entry in Calexico with 135 valid social security cards and $25,000 in cash. Needless to say, we are interested in how the cards were obtained. The suggestion of some kind of inside help is obvious. And this is sort of what I call ancillary corruption, it's the tip of the iceberg. Wherever you have a whole class of illegal people, people obviously have opportunities for corruption of all sorts arising; and that's talked about by people more articulate than I am. Obviously, there's a concern about misconduct in the issuance of various documents in which there's a great deal of discretion by various people ranging from Federal employees to private immigration counselors who provide alleged employment documents to support certain applications. In large part our concern in this area stems from the discretion and thus from the potential lack of accountability in issuing these documents.

Brutality is something I've been asked to talk about. The prosecution which ensued last fall, and I know a lot about it because I prosecuted it myself, involved a certain vigilante operation by Border Patrol agents who, it was alleged in the indictment and proved at trial, concluded that the system just doesn't work, and they were going to take it into their own hands.

They did not involve prosecutions against officers for misjudgment or miscalls in the sense of overreacting in a stress situation which arose momentarily such as Mr. Murphy was telling you about. These involved circumstances where the application was under benign circumstances; but the conduct of the alien taken into custody was offensive to the agent; and the alien was taken from point A to point B, and a punishment consistent with the nature of whatever the offensive activity had been was administered. For example, one of the instances that was proved, the alien had given the "finger"—gesturing—to the helicopter—well, pardon, the record shouldn't—he made an obscene gesture. [Laughter.] And the alien was taken to another location where his hand was placed on the floorboard of the patrol vehicle and repeatedly beaten with a nightstick.

Correctly, I believe, I decided that if that sort of conduct was taking place, that it had to be handled criminally, that that was not the sort of conduct—there were statements made, by the way: "It's too bad we have to do this, but the system just doesn't deal adequately with this"—that was not a matter which was appropriately addressed within the internal disciplinary system. And so we brought a prosecution, and it was a difficult prosecution, because it was necessary to use the Civil Rights Act of 1870, codified as United States Code, section 242; and that statute provides that whoever being an inhabitant, notwithstanding being an alien—and we had to establish and we established for the first time in 109 years that in that statute inhabitant means person, and thus there is Federal jurisdiction.

There is no statute in the Federal criminal code that makes it a crime for a Federal officer to abuse a prisoner in his custody. No one disputes the absence of that statute. And in all the talk about brutality and what the Federal Government ought to do, no one clearly pointed that out. I was aware of it, so we waited until we had a very strong case. And in that case, to the credit of the U.S. Border Patrol, our witnesses were other Border Patrol officers; five officers testified for the Government, four of them trainees and one an agent. And I don't mind telling you it's unpleasant, sort of difficult to run a criminal division in a busy criminal jurisdiction where half your cases are related to border patrol, and you are prosecuting them at the same time. But we did it, and we did it successfully; and those individuals will be sentenced next Monday; and I suspect they will be sentenced to prison.

Now, another underlying question which concerns you is whether or not this kind of activity is widespread? My suggestion would be that the vigilante type of activity we prosecuted is not widespread. It's pretty limited. Participation in that kind of activity is relatively rare. Although our belief is that knowledge and acquiescence was a good deal more widespread than I would have hoped or thought. There is not an ungovernable urge on the part of law enforcement officers to testify against their fellow officers, and in that sense our case is a real first.

Excessive force in routine apprehension is a different question, a different kettle of fish. It's a more widespread problem. It stems from a more systemic problem, and that's too few men are doing too much. We do have a situation where one agent attempts to apprehend 25 to 50 people acting alone at night in dangerous areas. There's a tendency toward preventive action in these circumstances. And I have to say I sympathize with the officers there. I have been all over the border at night, daytime, you know, from the air, on the ground; and an officer attempting to apprehend a group of 20 to 25 people by himself, as the situation begins to develop, he's going to take charge. And I have attempted with some degree of success to get the Border Patrol to employ two-man patrols, routinely at night. The Attorney General has issued an order that in dangerous areas that shall be entertained.

The problem is obviously one of manpower. At any given time in the Chula Vista sector you have about 40 agents on the line at night, having to patrol 16 miles. I can give you numbers on how that breaks down. You got about 240 agents in the Chula Vista and Brownsville—those are the two border watchstations; there's six or seven stations in the district; but I mean in the Chula Vista sector, there are 240 agents, 7-day weeks, 3 a day shifts, annual leave, days off, a great deal of training because a high percentage of the Border Patrol officers are trainees. You have sick leave, vacancies. That leaves 40 to 50 agents on the line at any given time to cover about 16 miles of border, aided by two helicopters; one of which was stoned down and crashed right in the middle of my trial of the other border officer, which I might say, along with the Iranian situation, didn't create a favorable impression.

Currently on complaints of brutality, I might say the sector is fairly quiet. Post-prosecution complaints of brutality dropped significantly. I'm suggesting we got the worst offenders off the line; a small number of persons acting in that fashion can produce a lot of complaints. Second, I think the agents realized on watching that trial, they did not want to be in the dock. It's one thing to think about being disciplined, but quite another to think about being made a criminal defendant. In the outlying areas, where the impact was not as great as in the Chula Vista sector, we had 40 to 50 agents and they weren't sitting on my side of the aisle. And in other sectors, we are getting a fair number of complaints, and are doing everything we can to investigate that.

The only remedy obviously can't be criminal. Recently, the Service to its credit, stressed professional responsibility in the sector. Part of the professional responsibility things were handled out of Washington. And I don't mind telling you that's very well, but if you are involved in day-to-day investigation, they need to be there now, they need to move quickly.

On the particular prosecution we handled, we chose to do that with a grand jury in the sector immediately being run by my office, as opposed to the normal procedure of having the FBI do the investigation and handle the civil rights matters by being sent back to Washington, Department; and then a year later, back out to us. That's not the most responsive procedure.

The flip side, of course, is you have a greater number of assaults on agents. We have indicted five such cases; five this year, and I'll tell you what those are like, if you want. We have a real dilemma from a legislative point of view. There's only one statute, 18 U.S. Code 111, that allows us to prosecute in that area; and that is exclusively a felony. We have a problem with assaults on agents we think really ought to be acted on, but are really not felonious. We have lost a couple of those in juries where they support the agent. We brought the prosecution in district court, and in trying the case, the jury knows this 21-year-old kid pushed the agent around, spit on him, did something that needs to be dealt with, but they don't want to make a felony out of it. If you know a little bit about courts and a little bit about life, you understand that. But I think overall we are doing pretty well.

Smuggling, I think, overall, we are doing pretty well. We are making a large number of substantial conspiracy cases and turning out a pretty good work product. And I can tell you about some of the cases we have brought. They are again difficult cases, not too dissimilar from large narcotic cases, with a great deal of surveillance, a great deal of documentary analysis, particularly telephone records, a lot of informant information, and not infrequently working an undercover person into the operation.

We face manpower issues there. There are 24 agent positions—antismuggling positions—in the Chula Vista sector; 3 in INS Headquarters, 7 in the Imperial Valley. In a typical month, for example, summer, 1979, we had 500 potential smuggling cases revealed by the field agents; only 200 of those could be investigated. The other 300 had to be declined for lack of investigative resources. Now, 500 cases a month is a huge burden. What do you do with them once they're processed?

I am going to wind up quickly. The only remedy for brutality can't be criminal prosecution. Recently, to the Service's credit, they have stressed professional responsibility in the sector. We have tried to share the troubles with the Mexican authorities, the media and so forth. I don't know that the situation has been dramatically improved. One could even argue that after that prosecution I ended up with an even muddier situation than before. But I know my own point of view: The fact we've cracked down has helped.

We have other problems involving high-speed chases which involve death. To set the tone on that, I personally prosecuted one of those cases 18 months ago in which two individuals died; two Guatemalan males died in the back of a U-haul truck which the smuggler was driving across the middle of the Imperial Valley, in late September, early October; 120-degree heat; they suffocated and died in their own vomit in the back of the truck in the presence of the other people. When the truck was stopped and the doors opened, they fell out. To make a point out of the case, I prosecuted it. He was convicted and sentenced to 5 years. There are also a lot of extortion cases in which smugglers separate the children from the family—a very unpleasant business.

In terms of the deterrent effect, we apprehend 400,000 illegal aliens, approximately, in the southern district of California each year. I'll tell you just a few things about that number: We have no way of knowing whether that's 200,000 people twice, 100,000 people four times, 50,000 eight times, or 25,000 whatever the next multiple would be. The reason for that is fairly obvious. Mechanically you simply cannot take that many people into custody, fingerprint them, mug them, determine who they are and how many times they've come across. They don't carry American Express Gold Cards or wallets. We have no choice but to take them into custody and put them back over the line. They are going to keep coming regardless of what we do. It's our decision, therefore, not to look to prosecute them, and to focus our efforts on smuggling and on commerical exploitive aspects that relate to smuggling.

We are not going to stop it. Obviously, we are reckoning with a lot of sociological and other realities. We don't stop drugs, homicide, rape or burglary, either. It's not the only area where our social policy is problematical.

We had a number of shootings by Border Patrol agents, particularly in April and May last year, some of which were very close as to whether they were justified or not. I said publicly a number of times on the west coast, and I say it here: Three out of four of those cases I don't believe the shooting would have been justified if a second officer were present.

Second, now we have established the fact we will prosecute, and Border Patrol officers will testify; there is at least a potential for the first officer worrying someone may open up. I'll tell you about those if you want to know about that. I'll tell you about material witnesses, automobile seizures. I can lend the perspective I hope I have articulated; that is, as one who works with it on a day-to-day basis. I do not purport to have, and I would like to resist attempting to comment on the macroissues, the large issues, dealing with manpower as a whole. I have no adequate foundational basis to make judgments about the Service as a whole. I can only tell you about that portion I deal with. I would be happy to answer any questions.

Ms. HOLTZMAN. Mr. Walsh, thank you. I don't know that we have heard a more articulate witness. I want to thank you for your insights.

I gather the basic thrust of what you are saying is that a number of the problems, especially with regard to violence and brutality, could be alleviated if additional manpower was available and if there were two-person patrols?

Mr. WALSH. It is my judgment in the Chula Vista section, and southern district of California—that's what I know about—that additional manpower is relevant, principally from two perspectives:

No. 1, the safety of the agent, and the safety of the alien being apprehended.

No. 2, from the more reasonably efficacious approach to the antismuggling effort.

I don't—I would not urge upon you that more enforcement personnel—and a lot of this may not be related to overall numbers, but internal employment practices within the Service—I would not urge upon you an increase of 100 or 150 people is something that would significantly affect the flow of undocumenteds into this country.

The distinction there is as follows: As I indicated from among the total we apprehend, we don't know how many we reapprehend. We do know from "clinical" knowledge, that reports of individuals whom we arrest, and undercover informants and so on, that there is a very substantial repeat flow. You apprehend somebody one evening; he's in custody for a few hours; put back across the border; and they come back the next day.

We do also know smugglers guarantee delivery. So I don't want to say more than I'm saying about whether I can promise in terms of the long-term labor market implication or other things, a larger manpower force is going to come through there.

Ms. **Holtzman**. But it would help, you think, with regard to a reduction in violence and increased safety, both for the border patrol and the alien.

You also mentioned smuggling, could you spell out why two-person patrols would be more effective with regard to smuggling?

Mr. **Walsh**. That's a very good question. I am afraid I didn't make that clear.

They are really very different subjects, because within border patrol—and this has grown somewhat in the last 2 years—you have many separate activities. But among the separate activities are two, one is the line-watch function; that is, you have the individuals who are stationed on the line during the day and at night, who are making apprehensions of people who come across the line.

Then you have the antismuggling function. The antismuggling function is in many respects a separate and distinct thing from the former activity. Those people are the people who come in to make an investigation in an endeavor to move up the line and determine how it is that various groups have been brought in.

For example, suppose we receive a tip—and we have more of these than we can deal with—that a certain house in a certain area is being used as a drop-house; aliens are seen coming at all times of the day and night. We obviously need people to go sit on that house, surveil it, take license numbers, photographs, identify people, then to infiltrate that organization, or arrest someone who comes out of it but who's far enough up the chain they don't see it as related to the surveillance; get them to work with you.

That sort of activity is a more typical detective activity. When Castillo was Commissioner, there was a lot smaller number of antismuggling agents—and I did have some extensive discussions about that. Ultimately that number was increased.

Ms. **Holtzman**. Do you think the 24 is adequate?

Mr. **Walsh**. No.

Ms. **Holtzman**. What do you think is adequate?

Mr. **Walsh**. Well, the statistics I gave you last summer, in 1 month, we had 500 smuggling referrals; we could only investigate 200 of them. You can draw some conclusions from that. We tried to pick the 200 most important. You can't say we did 40 percent; you have to

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weigh them and hopefully we did 40 percent of the most important ones. But that activity, which is really in most of the whole area, you know, people are going to have to act sensibly as we are going to have to do the most sensible things in focusing on the commercial exploitive aspects. And that area needs more. Exactly what number? Obviously people could differ about that, like every other social issue, you can say, well, "stamp out X, Y or Z"; and if you want to spend $100 million on it, it's just compared to what?

We could use more. What the number is, I am not sure.

Ms. HOLTZMAN. Let me ask you two other questions. The first has to do with the issue of initial training and followup training of the Border Patrol, to insure that the highest professional standards are met. Do you think this area needs attention?

Mr. WALSH. Yes.

Ms. HOLTZMAN. What do you recommend?

Mr. WALSH. Well, let me just give you a little perspective, and what I say will make more sense:

In the area Commissioner Murphy was talking to you about, use of weapons, I became concerned about that a year or so ago, because of the number of shootings we had. The Border Patrol appropriately and understandably has inculcated in each of its agents they can only use their weapon in three circumstances: Their life is in danger, the life of a third-party is in danger, the life of another officer is in danger. The second and third sort of merge. The question becomes, how do they recognize and deal with those circumstances?

We went down—I went down—met with every shift of Border Patrol officers that came on and off duty, personally, with two other lawyers, for about an hour each and said, "Look, this is what the rule is"—if you can excuse my "French"—"Dammit, let's talk about the specifics of where this might arise: You got an alien bending over to pick up a rock 15 feet from you; should you shoot him? Is your life in danger?" They really didn't know; the kinds of applied facts became "10 feet" or "a knife."

What we did was tell them, "Look"—same thing Mr. Murphy said—

> You have a $1,500 walkie-talkie on the side of your hip there. What do you have it for? To communicate with other people. What are you going to do with that individual if you take him into custody? It's not like you are a SWAT team out there. You are going to put him right back over the line, back where they came from. So, if you can avoid the use of force, you want to, under all circumstances, given the nature of what the apprehension is about. You can retreat in that circumstance, that is, rather than shoot the individual; back up, and don't try to take him into custody; he might be dangerous down the road. Get help.

We went through a series of examples like that in an endeavor to sort of sensitize them. I also told them:

> If you are wrong, you are subject, obviously, to civil suit. If you are wrong intentionally, you are going to be prosecuted.

Those meetings all took place prior to the conduct that led to the indictments. I happen to know the officers indicted were there at the meeting. I went back and checked. Obviously, the message was not successful. I couldn't communicate it by myself. Sometimes actions speak louder than words.

In fairness to the Border Patrol, they have an enormous dilemma. They have already got a very low experience level in the Chula Vista sector, for example, they averaged 18 months. It's a training sector. That is, when they get out of the Academy after 4 months, they come out to Chula Vista; half of the time—40 percent of the time—those men spend out there, they spend training.

They have got to worry a little bit—in fairness, they do this in the police all the time. How do you get the job done? It's sort of like dealing with an urban police force; you get to the issues which I think you have to reach: Increasing the admission standards, increasing the element of discipline. And they say, "We can't fill our current quotas now."

Ms. **Holtzman.** I think your point is that large police forces have instituted regularized procedures for training and the Border Patrol hasn't even adopted the common practice of most large police operations.

Mr. **Walsh.** It would be my belief, having dealt with day-to-day effects, it would be wise to do that.

Ms. **Holtzman.** My time has expired. Mr. Lungren?

Mr. **Lungren.** Mr. Walsh, I would like to thank you for coming here and testifying, and giving us an on the spot, on the line, perspective; which, unfortunately, I think we have lacked in many discussions we have had.

It seems to me you have indicated at least in the Chula Vista sector, that there is definitely a manpower problem. Would it be a fair statement to make that we really have an unreasonably low manpower level in the Chula Vista sector for purposes of officer safety?

Mr. **Walsh.** I have said that over and over in the last 12 to 18 months; that is my belief.

Mr. **Lungren.** Have you seen any measurable response to that problem, any significant change over the last 18 months, which would give us some reason to believe that there's some help coming?

Mr. **Walsh.** Yes; two things.

One, in the late spring of 1979, when Castillo [phonetic] was then Commissioner, I was not very popular with him, because we attempted in some ways to articulate the problems somewhat graphically out there. He did come out and there were some additional people, TDY, temporary detailed, that were of some assistance.

Mr. **Lungren.** Are they still there, temporarily detailed?

Mr. **Walsh.** I believe, and this you'd have to find out—again, these figures merge from one category to another—I don't believe so. I would not say that absolutely.

There's some problem with temporary details I ran into in anti-smuggling folks; after a second, third, TDY, you've got to increase their grade level; it causes problems within civil service.

Chula Vista is getting, as I understand it, 121 trainees and 22 support people, to a base complement of about 450; so in that sense, the answer to your question is "yes."

Now, other problems I mentioned, about lag time, and actually knowing at the end of the line whether you are coming out ahead or behind in terms of how many people you really have on board, given resignations; I don't know how you push that along any faster. That is, the training of officers, while perhaps it could be improved on—and I believe it could—the training you are now giving them, of course, takes quite a little bit of time. They have to be bilingual, and it takes a good deal of time. Their entry-level problems are not uninfluenced by that.

As I go through the training records of officers—I had to in preparation for this trial—the allegation was made that some of our officers who testified were doing so for reasons of bias, by reason of having had some difficulties in some of their training tests. Training is a significant issue.

Mr. LUNGREN. You indicate need for a certain amount of training increase and some support personnel. Do you know how that would translate out on any given shift? There are a certain number of people in that sector, 265, and only about 40 are on line; given the numbers you just articulated, have you any idea what that would mean in terms of each shift?

Mr. WALSH. It would only if I applied it in a simple divisional arithmetic you could do: Take the total number, say it's about 10 percent on the line at any given time; 400, that's 40; if you took 121, took about 10 percent—I am not sure that's accurate. That's the best I could do.

You have to understand, I don't run the Border Patrol. I probably give them more advice than they'd like to have. You have to recognize, in everything I have said, I may be wrong.

Mr. LUNGREN. We were given copies of the memorandum that Justice got sometime ago from you, indicating at the time morale was very, very low in the Border Patrol.

Mr. WALSH. This would be last spring, or July—the morale of the Border Patrol had never been lower, the potential explosiveness of the situation had never been clearer.

Mr. LUNGREN. Have you noticed a significant increase in morale?

Mr. WALSH. No. I would like to just tell you what I had in mind when I wrote that. We had a situation develop a year ago this spring in which I became very concerned about—some people feel, probably too concerned. I think, in retrospect, I was correct.

And that is we had five shootings of aliens by border patrolmen within a short space of time. I was very, very concerned that the situation might get out of hand. As you know, in a crowd control situation, a kind of violent situation, the sum of the whole is greater than the parts. And we had a sort of war psychology developing, a larger number of people buying bulletproof vests. There was some suggestion, I think, that the violence perceived was triggering violence on the part of some of the folks coming across, some suggestion, I believe, that alien-smugglers were exploiting that—you know, "cut 'em off at the pass, you can start a ruckus, pull everybody to that area, then you just come right across."

I was apprehensive that the situation was going to get seriously out of hand. We were going to have shoot-outs. And that the point at which, rightly or wrongly, I decided, being there on the spot, you had to take a series of initiatives we took, which I think are outlined in that memorandum, and it involved an endeavor to secure cooperation from the officials on the Mexican side, and an endeavor to articulate the problem more clearly through the media, than had previously been articulated, and an endeavor, basically to kind of, you know, in a philosophical sense, "share your troubles," with the idea maybe something will come out of it—you don't know exactly what.

I don't know that the situation has been dramatically improved on. I suppose one can argue I ended up after it all prosecuting the border patrolmen and that it's even muddier now than it was before.

But I know from a violence point of view, the fact we've cracked down has helped; and the fact the folks on the Mexican side have moved in, has helped, on the violence. I still, as I said in the very beginning of my statement, I believe the potential for explosiveness is there.

Mr. **Lungren**. And lack of manpower contributes to that?

Mr. **Walsh**. In the Chula Vista sector, for the reasons I explained, yes. I can't emphasize enough: I do not bring you any views I pay any attention to from a macropoint of view.

Mr. **Lungren**. From a macropoint of view, Chula Vista is one of the largest sectors in the country. Probably it is the largest sector.

Mr. **Walsh**. I believe—the Service can give you this—I believe the total number of apprehensions in Chula Vista is about equal to the number of apprehensions in the rest of the land and seaboard of the United States, combined.

Mr. **Lungren**. You alluded to the cooperation that was begun last year, partly at your initiative with Mexico, particularly, Baja, Calif. (Mexico). Has that been continued to this point? Is it of significance?

Mr. **Walsh**. It's helpful. There are really two areas to look at, sir. One has to do with their responsiveness in the face of our requests for assistance if violence ensues at the border itself. The answer to that question is, yes; it's very helpful.

The second element attempts to secure their assistance for dealing effectively with smugglers in Mexico based on our intelligence information—no.

Mr. **Lungren**. You also seem to indicate there is some abuse of the information we turn over?

Mr. **Walsh**. Well, I am real careful about that. There have been widespread press reports that the information we provided to the Mexicans was used to shake down, exploit, however you would appropriately describe it, those individuals, rather than to effectively arrest and prosecute them. I think all I would care to say is that I am not now currently providing intelligence information.

Mr. **Lungren**. With respect to the question of smuggling activity in the Chula Vista sector, do you have any feeling if it is diminished as compared to a year ago? Is it better or worse?

Mr. **Walsh**. That's a judgment. I guess my judgment's a little better than somebody else's, because I deal with it. But it's a judgment, not a statistical matter. I'd say it's worse.

There's a lot of money to be made there in smuggling. The normal conditions under which these people are smuggled would be absolutely repugnant and abhorrent to you and to me, but if in an anthropological sense you realize where they are coming from and the conditions they've lived under—well, they put them in the back of a truck—we've stopped trucks with, like, 140-150 people in the back of a semi; they are willing to tolerate those sorts of conditions, they are willing to be kept in drop houses for 7 and 8 days at a time, with very little food and water, in order to achieve what it is their expectation and hope they will achieve.

My view is, given the push factors in Mexico and the pull factors in this country, the presence of folks who will assist them on the way, and the money that's involved in it, that it's growing.

Mr. **Lungren.** You mentioned that the only statute that deals with—that protects some people, I guess the Border Patrol officers—is the one you mentioned?

Mr. **Walsh.** That's right.

Mr. **Lungren.** Do you have any suggestions as to a new misdemeanor offense, and any suggestions as to making some changes in specific laws which would aid you in terms of prosecuting sumgglers?

Mr. **Walsh.** Yes.

First, I would like to see a misdemeanor assault statute when it really wasn't felonious, and we couldn't make that with a jury, so we could back the agents up. Second, you ought to have, it seems to me very clearly, a statute which makes it a crime for a Federal officer to abuse someone who is legally in his charge, independent of the Civil Rights Act.

Third, even under the Civil Rights Act, 18 U.S.C. 242, which is the statute under which we proceeded, it's a misdemeanor unless death results. That seems to me to be kind of silly.

And under the Federal code, of course, it doesn't become a felony by being charged as a conspiracy; that is, a conspiracy to commit a misdemeanor is a misdemeanor. It's not a felony, as it is in many States.

Just so you don't get bad information—we charged that case initially as a felony, because I dreamed up a sort of Haldeman-Erlichman theory that those Border Patrol officers were corrupting the United States, conspiring to defraud the United States by corrupting the trainees. And that's the theory on which we tried it to the jury; and the jury could not reach a verdict. When we tried it in the court subsequently, we went back and charged the conspiracy to violate civil rights.

Ms. **Holtzman.** The gentleman's time has expired.

I regret that we have to adjourn this hearing without further questions. Would you be willing to answer questions in writing?

Mr. **Walsh.** Yes; I have to say we have our hands full out there. I would try to provide such information as I could.

In closing, just let me emphasize what I've said before: I'm out there sort of digging in the sand, and I'm giving you that perspective. I don't claim to have the larger perspective, and I hope everything I've said fits into that perspective.

Ms. **Holtzman.** We appreciate it very much. Thank you for your testimony.

The subcommittee will adjourn until 3 p.m.

[Afternoon session.]

Mr. **Hall** [presiding]. Subcommittee will come to order.

I believe we have the testimony of Mr. Richard Bevans, president of the National Border Patrol Council; also, Mr. Michael G. Harpold, president of the National Immigration and Naturalization Service, for the subcommittee.

Gentlemen, we appreciate you being here. We apologize for the peculiar way in which we meet with reference to our time, but there's nothing that we can to to prevent that. So whichever of you gentlemen wishes to present your testimony, we are happy to have you.

TESTIMONY OF RICHARD BEVANS, PRESIDENT, NATIONAL BORDER PATROL COUNCIL OF THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES; AND MICHAEL HARPOLD, PRESIDENT, NATIONAL IMMIGRATION AND NATURALIZATION SERVICE COUNCIL OF THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

Mr. HARPOLD. I think it would be easier if both of us are here together, because I know you have questions for both of us.

In the way of introduction, I'll say that Mr. Bevans represents the Border Patrol's employees and I basically represent the rest.

Mr. HALL. You just proceed as you see fit.

Mr. HARPOLD. Also by way of introduction, I will say that we do try and be a very responsible union. We travel a great deal, and during the past year we have visited every single border port in the State of Texas, including every district office in the State of Texas. So we feel that we do have some knowledge concerning the problems and the morale, particularly of the I&NS employees.

We'd also like to make the point that we did support very strongly the legislation which enabled this committee to take over the line item authorization function for the I&NS budget. We felt strongly that this committee would be in the best position to determine what the INS needed in terms of the tasks that it had to fulfill. We also worked a great deal through our parent organization, the AFL-CIO.

On February 25, 1980, the AFL-CIO executive council in Bal Harbour, Fla., adopted a statement on immigration policy which included the following point:

> The AFL-CIO will support legislation that would: provide adequate funding to strengthen border control inspection capabilities and anti-smuggling activities to stop illegal entry.

It further went on to say:

> The Justice Department should do much more to strengthen and improve the Immigration and Naturalization Service. Administration and employee morale would be enhanced by improving benefits, by resolution of longstanding labor-management problems, and the long overdue appointment of a Commissioner. Increased resources and the technology for border enforcement and better control over the issuance and use of visitors' visas to the United States are needed.

Our big concern, however, is employee morale. And I'd like to point out that the sole asset of the Immigration and Naturalization Service is not equipment or computers or other material; it's the 10,000 employees who work in the Immigration and Naturalization Service; 99 percent of the budget request before you is for salary benefits in support of these employees as they go about their statutory mandated tasks.

The union feels, therefore, that the single most important element in determining whether the INS can fulfill its mission today or will be prepared to do so in the future is the morale of the employees in the Immigration and Naturalization Service. Employee morale is adversely affected today in three principal ways:

First, the uncertainty over this Nation's immigration policies and conflicting and often ambiguous direction from the administration leads employees to question whether they are supported in their efforts. Similar questions arise from the lack of adequate resources to perform assigned functions, and as a consequence, our employees have become pretty discouraged.

Finally, the administration at all levels, including management within the Immigration and Naturalization Service, has failed to move rapidly enough and frequently not all to resolve employee problems.

The Chair recognizes the problem with employee morale in the opening remarks. While we are appreciative of Acting Commissioner Crosland's efforts to set the record straight regarding news articles that describe Immigration and Naturalization Service employees as brutal and corrupt, it must nevertheless be recognized that employee morale is in a very seriously deteriorated state. It is not enough to say that Immigration and Naturalization Service employees "are somewhat frustrated and concerned about what they perceive as lack of support on the part of those of us here in Washington."

In my 15 years with the Immigration and Naturalization Service and a decade as a union leader, I have never been more alarmed concerning the state of employee morale. I am most fearful that we again hear the refrain which so frequently on the heels of an earlier scandal in 1972 and 1973, "Nobody cares, so what's the difference." At that same moment, Immigration and Naturalization Service management told a congressional subcommittee that employee morale was "magnificent; how else could it be anything but excellent, when so many employees are performing so magnificently in the face of such difficult circumstances?"

This union has undertaken great efforts in the past several months to insure that both the Department of Justice and Immigration and Naturalization Service management are aware of the morale problem within the Service. It is not enough to beef up the internal investigations unit or appoint a special investigator. We believe that the situations calling for such remedies can be avoided.

We would like to recommend to you what we feel can be done to address the problem. The single greatest factor adversely affecting employee morale is what the employees perceive to be the degradation of the Immigration and Nationality Act. We take the law seriously. It is our job. It affects our dignity as well as the dignity of this Nation that the law is not only so consistently violated with impunity, but that the majority of our countrymen seem either to condone such widespread violation of it or at best to remain indifferent to it.

We are aware that the Select Commission on Immigration and Refugee Policy is studying the revision of the Immigration and Nationality Act and will report its findings, we are told, by the end of the year. We are also aware that enactment of new and hopefully more viable laws will probably not occur for a year or two thereafter.

We are, of course, frustrated by the length of time required by the political process. And listening to the testimony this morning, I think we're even more frustrated in that the administration has chosen not to ask for additional resources pending the outcome of these deliberations. We feel—and I think it's our considered opinion—that the solution—there is sufficient consensus in this country today regarding the solution to the immigration problem. There is at least sufficient consensus to enable the Congress and administration to proceed with remedial legislation in many areas now.

We are encouraged that the Congress is acting on the Immigration and Naturalization Service efficiency package and remedial legislation for the families of lawful resident aliens. We are encouraged that some moves have been made. We're encouraged that progress is being made concerning the problem of separation particularly of Mexican families, the sex preference problem, and refugees legislation. But we feel more can be done and we would urge the committee to proceed in other areas where improvement in the INS can be made.

The second major item which I referred to was a lack of resources to perform the job. And I've included in my testimony a chart showing some of the increases in the workload that we are enduring. And I think the first item there, the inspections, the increased 5 million visitors between 1980 and 1981, as we heard this morning, we're dubious for any increase in the inspection of work force. And in fact, at this moment we have reduced our inspectional presence on the Mexican border, and I understand that the Service has abandoned its commitment to staff Mexican border ports at a 50-percent ratio with the Customs Service.

I also understand, in talking to my people at El Paso, that the Sunday staffing has been reduced from 42 inspectors by 17 inspectors—so there are 25 inspectors doing the work of 42. In the evenings, when the inspectors call in sick or ill, no other inspectors are called out to take their place, as a consequence causing the shutdown of traffic lanes. This is occurring at the same time that the Customs Service is also reducing its presence at Mexican border ports.

Another item affected by lack of resources is the antismuggling program. No new resources are being requested for this program, which we feel is one of the largest breakthroughs in immigration enforcement efforts in recent years.

Of additional concern is our investigation program. While we're requesting for new resources for investigations, investigative cases pending are ever-increasing. In 1980, we have 146,000 investigative cases pending resolution. In 1981, 162,000. In the meantime, the caseload of completions in each of these years will be a mere 55,000.

And the adjudication problem is growing, too. The INS expects to receive in 1981, 1,971,000 adjudications. That's up 131,000 from 1980. At the same time, the cases pending will increase from 350,000 to 392,000. It would seem to us that the administration has chosen simply to mark time until some uncertain date in the future when all will be magically revealed concerning the solution to the nation's immigration problem. At that time, we suppose, adequate resources will be requested.

But what resources will it take to reduce the massive backlogs that continue to grow in all of our Service activities and our investigative activities? How many people will the agency have to hire and retrain to replace those employees who finally, out of frustration, leave the Immigration and Naturalization Service?

A good example in budget process in the INS is the ZZB level for the investigations program. And you can see it's at rock bottom, the minimum statutory level required to perform just a minimum function. Similarly, the INS budget estimates for 1981 contain a chart showing the excess waiting time for adjudications in various district offices throughout the United States.

For example, the optimum waiting time for adjustment of status is 60 days, and for the adjudication of a relative visa petition, 10 days. But our New York City office, the excess waiting time for adjustment of status is 138 days, and for relative visa petitions 144 days. An accompanying chart in the ZBB chart shows how many additional positions and work years would be necessary to reduce the excess waiting time by 25, 50, 75 percent, and to eliminate it entirely. Twenty-two additional positions would eliminate the excess waiting time in New York and 100 will eliminate it nationwide. Those are adjudicative positions.

Why, then, we as employees ask, should the Administration not be requesting these people? Why must those of us who are here be overworked, robbed of job satisfaction and endure continually growing backlogs and complaints?

We know how many people it will take to do the job in most of our activities, and that includes the Border Patrol. The test infusion of 100 additional agents into the Chula Vista sector in the summer of 1977 demonstrated that we could observe results with an infusion of manpower. There is little waste, if any, in the utilization of Immigration and Naturalization Service line employees. At minimum, the infusion of additional personnel resources in the Service's operational activities will help preserve the morale of those people already present.

We feel it is essential if the Service is to survive into the 1980's.

Finally, if the Immigration and Naturalization Service is to continue to function until new laws and better resources are available, a great deal of attention must be given to the needs of the employees.

This is of particular concern to us, because this union feels that it has a deep obligation in the Service today to join in good faith efforts in the resolution of employee problems. Unfortunately, INS management has taken us on as adversaries and most of the cases that we do resolve, up until recently, have been resolved only through litigation, through an arbitrator or through the Federal Labor Relations Authority or what-not.

We feel very strongly about processes called consultations. Consultations mean the union, as representative of the employees, and management meeting to sit down on a regular basis and resolve employee problems. Throughout last fall, we had very spotty success in the consultation process. In fact, virtually no success at all. It has only been recently, after very heavy efforts by this union, that we were able to reestablish communication, which hopefully will enable us to resolve problems through a consultation process in the future.

We are very concerned, however, with the labor-management relation program in the INS. The union has no full-time officers or no business agents. We do all our own work. But the INS has 11 full-time labor-management relations specialists. Their response has not been to assist in or facilitate the resolution of employee problems, but rather they are expending their efforts almost solely against the union.

As a consequence, we have over 23 unfair labor practice complaints pending with the Federal Labor Relations Authority. Were these 11 individuals assigned to do adjudications instead, based on the average productivity of our employees, they could complete 79,200 visa petitions this year.

In summation, I would like to leave you with the conviction that the Immigration and Naturalization Service work force is basically sound and well-motivated. The work force is the sole strength of the Immigration and Naturalization Service and should be considered an asset to this Nation. It exists as a firm and tested foundation, upon which reforms that this committee hopes to effect can be built.

As employees of the Immigration and Naturalization Service, we would in turn hope that the committee would continue to solicit the special expertise that we have as you continue your deliberations.

Mr. HALL. Thank you, Mr. Harpold. We will give it consideration.

At this time, I ask Mr. Bevans to present his testimony. And I have some questions of probably both of you.

Mr. BEVANS. A lot of our statement parallels what Mike presented, although it deals with specifics somewhat.

Mr. HALL. May I interrupt? If you could summarize to a certain degree? We might overlap because of time limitations.

[The complete statement of Mr. Harpold follows:]

NATIONAL IMMIGRATION AND NATURALIZATION SERVICE COUNCIL
OF THE
American Federation of Government Employees
P.O. Box 2023, San Francisco, CA 94126
Affiliated with AFL-CIO

In Reply Please Refer To

STATEMENT

OF

MICHAEL G. HARPOLD
PRESIDENT

BEFORE

THE

SUBCOMMITTEE ON IMMIGRATION,
REFUGEES AND INTERNATIONAL LAW

ON

MARCH 12, 1980

TO DO FOR ALL THAT WHICH NONE CAN DO FOR HIMSELF

Madam Chairwoman and members of the Subcommittee, we are pleased to appear before you today as employee representatives of the Immigration and Naturalization Service to testify regarding the Service and the FY 1981 Budget Authorization. This Union strongly supported the legislation which gave this Committee authorization authority over the Immigration and Naturalization Service budget because we felt that this Committee was in the best position to determine the needs of the Service in relation to its tasks. We as representatives of the Immigration and Naturalization Service employees have a special obligation to assist and inform you as you conduct these inquiries and seek to improve the Immigration and Naturalization Service.

As part of the AFL-CIO we also seek to keep that organization informed regarding the Immigration and Naturalization Service and the Immigration and Nationality laws. On February 25, 1980, the AFL-CIO Executive Council adopted a statement on immigration policy which included the following points:

> "...the AFL-CIO will support legislation that would: provide adequate funding to strengthen border control inspection capabilities and anti-smuggling activities to stop illegal entry."

And further:

> "The Justice Department should do much more to strengthen and improve the Immigration and Naturalization Service. Administration and employee morale would be enhanced by improving benefits, by resolution of long-standing labor-management problems and the long overdue appointment of a Commissioner. Increased resources and technology for border enforcement and better control over the issuance and use of visitors' visas to the United States are needed."

EMPLOYEE MORALE

The Subcommittee is well aware that the Immigration and Naturalization Service has little in the way of property, hardware or other inanimate items. It gives out no money nor does it administer grants in aid. Rather, the sole asset of the Immigration and Naturalization Service is the ten thousand employees who work in the Immigration and Naturalization Service. Ninty-nine percent of the budget request before you is for the salary, benefits and support of those employees as they go about their statutorily mandated tasks. The Union feels, therefore, that the single most important element in determining whether the Immigration and Naturalization Service can fulfill its mission today or will be prepared to do so in the future is the morale of the employees of the Immigration and Naturalization Service.

Employee morale is adversely affected today in three principal ways. First, the uncertainty over this nation's immigration policies and conflicting and often ambiguous direction from the Administration lead employees to question whether they are supported in their efforts. Similar questions arise from the lack of adequate resources to perform assigned functions, and as a consequence, our employees have become pretty discouraged. Finally, the Administration at all levels including management within the Immigration and Naturalization Service has failed to move rapidly enough and frequently not at all to resolve employee problems.

The Chair recognized the problem with employee morale in her opening remarks. While we are appreciative of Acting Commissioner Crosland's efforts to set the record straight regarding news articles that describe Immigration and Naturalization Service employees as brutal and corrupt, it must nevertheless be recognized that employee morale is in a very seriously deteriorated state. It is not enough to say that Immigration and Naturalization Service employees "...are somewhat frsutrated and concerned about what they perceive as lack of support on the part of those of us here in Washington."

In my 15 years with the Immigration and Naturalization Service and a decade as a Union leader, I have never been more alarmed concerning the state of employee morale. I am most fearful that we again hear the refrain which we heard so frequently on the heels of an earlier scandal in 1972 and 1973, "nobody cares, so what's the difference." At that same moment, Immigration and Naturalization Service management told a Congressional subcommittee that employee morale was "magnificent, how else could it be anything but excellent when so many employees are performing so magnificently in the face of such difficult circumstances."

This Union has undertaken great efforts in the past several months to ensure that both the Department of Justice and Immigration and Naturalization Service management are aware of the morale ~~situation~~ problem within the Service. It is not enough to beef up the Internal Investigations Unit or appoint a

Special Investigator. We believe that the situations calling for such remedies can be avoided. We would like to recommend to you what we feel can be done to address the problem.

CHANGES IN THE LAW

The single greatest factor adversely affecting employee morale is what the employees perceive to be the degradation of the Immigration and Nationality Act. We take the law seriously. It is our job. It affects our dignity as well as the dignity of this nation that the law is not only so consistently violated with impunity, but that the majority of our countrymen seem either to condone such widespread violation of it or at best to remain indifferent to it. ~~Major segments of the economy~~ profit ~~from the large number of illegal~~ entrants.

We are aware that the Select Commission on Immigration and Refugee Policy is studying the revision of the Immigration and Nationality Act and will report its findings, we are told, by the end of the year. We are also aware that enactment of new and hopefully more viable laws will probably not occur for a year or two thereafter. We are, of course, frustrated by the length of time required by the political process. While we are willing to await the actions of the Congress, we question the fact that nothing can be done in the meantime. We feel that there exists sufficient consensus regarding the framework and principle elements of the solution to the problem to enable the Congress and the Administration to proceed with remedial legislation in many areas now. We are encouraged that the Congress is acting on the Immigration and Naturalization Service Efficiency Package and remedial legislation for the families of lawful resident aliens. More can be done, however, and we urge the Committee to proceed in other areas where improvements can be made.

LACK OF RESOURCES TO PERFORM THE JOB

In its budget planning for FY 1981, the Immigration and Naturalization Service estimated the following increases in its workload:

	1979	1980	1981
Persons admitted at Ports of Entry	274,000,000	286,000,000	291,000,000
Aliens Denied Entry	950,000	980,000	1,011,000
Smugglers Apprehended Nationwide	17,000	14,000	14,000
ADIT Cards issued	700,000	900,000	900,000
Illegal Status Leads	134,000	135,000	135,000
Deportable Aliens Located	143,000	132,000	132,000
Investigative Cases Pending	134,000	146,000	162,000
Investigative Cases Completed	59,000	55,000	55,000
Applications and Petitions Received	1,788,000	1,860,000	1,971,000
Cases Pending	258,000	350,000	392,000

In the categories marked "Smugglers Apprehended", "ADIT Cards Issued", "Deportable Aliens Located" and "Investigative Cases Completed", figures were taken from the Zero Base Budget Decision package most closely related to the Administration request. Several important programs such as Anti-Smuggling will simply mark time because no new resources were requested. In other areas such as Investigations and Adjudications, backlogs will continue to grow.

It seems to us that the Administration has chosen simply to mark time until some uncertain date in the future when all will be magically revealed concerning the solution to the nation's immigration problem. At that time, I suppose, adequate resources will be requested. But what resources will it take to reduce the massive backlogs that continue to grow in all of our Service activities and out investigative activities? How many people will the agency have to hire and retrain to replace those employees who finally out of frustration leave the Immigration and Naturalization Service?

The Zero Base Budget level for the Investigations program is also the current level and the Administration is asking for no enhancement package in this activity. The basis for the minimum level is set forth by the Immigration and Naturalization Service as follows:

> "Basis for minimum level: The positions and resources at this level were selected because they represent the absolute minimum effort that the Investigations Program could expend and still maintain any semblance of accomplishment of the objectives of the program. Any further reduction would be very disruptive to the enforcement function of the Service. Of considerable concern would be the build-up of the number of pending cases, and the hampering of the close liaison with other operating branches as well as other law enforcement functions such as the State and Justice Departments. This would result in increased reliance on other government agencies rather than relying upon our own manpower. This level represents the Minimum Level that was proposed in the FY 1980 Budget."

Similarly, the Immigration and Naturalization Service Budget Estimates for FY 1981 contain a chart showing the excess waiting time for adjudications of various applications in District Offices throughout the United States. For example, the optimum waiting time for adjustment of status is 60 days and for the adjudication of a relative visa petition, 10 days. At our New York City office, the excess waiting time for adjustment of status is 138 days and for relative visa petitions, 144 days. An accompanying chart shows how many additional positions and workyears would be necessary to reduce the excess waiting time by 25%, 50%, 75% and to eliminate it entirely. Twenty-two additional positions would eliminate the excess waiting time in New York and 100 would eliminate it nationwide. Why then, we as employees ask, should the Administration not be requesting these people. Why must those of us who are here be overworked, robbed of job satisfaction and endure continually growing backlogs and complaints?

We know how many people it will take to do the job in most of our activities and that includes the Border Patrol. The test infusion of 100 additional agents into the Chula Vista Sector in the summer of 1977 demonstrated that we could observe results with an infusion of manpower. There is little waste, if any, in the utilization of Immigration and Naturalization Service line employees. At minimum, the infusion of additional personnel resources in the Service's operational activities will help preserve the morale of those people already present. We feel it is essential if the Service is to survive into the 1980's.

FAILURE TO RESOLVE EMPLOYEE PROBLEMS

Finally, if the Immigration and Naturalization Service is to continue to function until new laws and better resources are available, a great deal of attention must be given to the needs of the employees. Rudeness and discourtesy to the public is never excusable and our people are aware of the need to be polite, patient, and helpful. Yet those same employees are treated by their own management in a manner that no member of the public would ever tolerate. A former Regional Commissioner is said to have once remarked, "a burro works best with a burr under his blanket." This attitude seems to pervade the Immigration and Naturalization Service to the extent that the employees feel that management not only fails to support them in the barest administrative necessities, but takes an outright antagonistic attitude towards their needs and their aspirations.

At present, the Union provides the only hope for resolving employee problems. There are several means of representing employees available to the Union. Philosophically and as a practical matter, we prefer a method called "consultations," sitting down and talking things over with management. During the past few months, we have been absolutely stymied in our efforts to do so. Every issue must now be litigated. We have over thirty issues pending decisions by outside arbitration. These we are not overly alarmed about because they do represent employee problems that will be resolved. We are concerned, however, regarding management's response to what we consider our legitimate goal, seeking resolutions to employee problems.

Recently, we have succeeded in once again establishing a line of communication with the Acting Commissioner and we are hopeful of improving our relationship.

The Immigration and Naturalization Service has eleven full-time labor management relations specialists. Their response has not been to assist in or facilitate the resolution of employee problems, but rather, they are expending their efforts almost solely against the Union. As a consequence, we have over 23 Unfair Labor Practice complaints pending with the Federal Labor Relations Authority. Were these eleven individuals assigned to do adjudications instead, based on the average productivity of our employees, they could complete 79,200 visa petitions this year.

In summation, I would like to leave you with the conviction that the Immigration and Naturalization Service workforce is basically sound, and well motivated. The workforce is the sole strengh of the Immigration and Naturalization Service and should be considered an asset to this nation. It exists as a firm and tested foundation upon which the reforms that this Committee hopes to effect can be built. As employees of the Immigration and Naturalization Service, we would in turn hope that the Committee would continue to solicit the special expertise that we have as you continue your deliberations.

Mr. **Bevans.** INS figures indicate that the Border Patrol apprehended in excess of 889,000 illegal aliens in fiscal year 1979, an increase of 27,000 over the previous year. Apprehension went up. There has been a substantial increase, 77,000 over the past 2 years with no increase in staffing or in funds.

We have no reason to anticipate any decease in the upcoming year. On the contrary, the largest Mexican crop failure in the last 20 years, with more than 100,000 peasant families in the State of Oaxaca alone, having lost their entire harvest, would indicate a substantial increase in pressure during the coming year.

Our organization is disturbed by the implication of Acting Commissioner Crosland's statement before this subcommittee on Febaruary 27 that we need not be concerned by the entire 2,000 miles of the Mexican border, since most entries occur in just a few areas.

While geographic and demographic variations do tend to favor a heavier concentration of entries in certain areas, past experience such as Operation Shortstop in 1977 has shown that when our enforcement capabilities are cencentrated in high traffic areas, the pressure noticeably decreases there and increases elsewhere, much like the displacement of water.

However, it is not our intent to in any way minimize the severity of the situation. It's becoming more of a problem all the time.

Contrary to what Mr. Walsh gave as his opinion this morning—what happens in Chula Vista and El Paso not only affects the morale there but is felt through the Border Patrol.

It has a very real effect on morale.

The northern border, long neglected and sadly understaffed, has come to the attention of the Northeast Governors' Conference. They've started making some noise in that area about the increased smuggling through the 200- and 300-mile gaps between small stations along our boundary with Canada.

Their concern is apparently shared by the Secretary of Labor, Ray Marshall, who stated that the unemployment rate could be reduced to less than 4 percent if illegal aliens were not present in the United States.

In support of the Governors' Conference and Mr. Marshall's contentions, the February 28 New York Times report of an as yet unreleased Labor Department survey debunks the totally unsupported, but often articulated myth that illegal aliens only take jobs that Americans don't want.

That survey indicates that the groups most heavily impacted, young people, minorities, and especially young people of minority groups, would be willing to take low-paying service jobs if they were available.

One of the major stumbling blocks to effective border enforcement is the multifaceted and continual problem of inadequate staffing and grade structure in the Border Patrol. The entry level for trainee agents is grade GS–5, with a salary of $11,200 per year—has created a great number of problems.

In 1978, reduction of the entry level from GS–7 to GS–5 has, we feel, both hindered INS in recruiting the best candidates and has created hardships where most of our new employees are assigned.

Our trainee officers in some areas are eligible for food stamps and other public assistance. The Justice Department recently admitted that the lower entry level was nothing more than a de facto affirmative action program, undertaken to attract Hispanic, black, and female officers. It was taken at a time when some trainee classes were approximately 50 percent Hispanic and has proved ineffectual in recruiting blacks and females and, in fact, may have discouraged candidates in those categories because of the combination of required relocation in the "Sunbelt" and the lowered entry salary.

The duties of a journeyman BPA have been clearly shown by both INS management and the union to warrant a grade GS–11; yet, those positions continue to be undergraded at the GS–9 level as a result of unfavorable Justice Department intervention with the Civil Service Commission at the conclusion of a 5-year study completed in 1978.

This undergrading is the largest single factor in a turnover rate significantly higher than the Governmentwide average.

We are unable to give exact turnover figures due to the inability or unwillingness of INS to provide such statistics.

However, as a consequence, we are losing the mature, experienced officers and are continually saddled with larger than necessary expenditures to recruit and train replacements at a cost of approximately $30,000 each.

Those seasoned officers are drawn to other government agencies and other functions within the INS by higher grade structure that afford them fair compensation for the work that they perform.

The continual lack of staffing is very graphically illustrated by the fact that money sent or taken back to Mexico by illegals in the United States replaced tourism as Mexico's third largest source of income last year.

Yet, despite the 1977 survey which indicates that 90 percent of the American people want effective enforcement of the immigration laws, a desire which has been reflected by the Congress and especially by this subcommittee in recent years.

The executive branch has shown a haughty indifference to the will of the people expressed through their elected representatives, the most recent example being the contrived hiring ceiling imposed by the Office of Management and Budget that stopped the filling of the majority of the 495 additional Border Patrol positions authorized and funded by the Congress for last year.

In addition, mismanagement and poor utilization of the manpower already on board further exacerbates an already bad situation. The continuing practice of using GS–9 Border Patrol agents to avoid filling lower grade level support jobs such as detention officer, radio operator, and general maintenance positions is a waste of trained and capable manpower.

Failure to create and fill sufficient antismuggling positions has resulted in the continued detailing of journeyman officers to this higher graded work without commensurate remuneration.

I think Mr. Harpold pretty well covered the labor relations aspect. I won't go into that. I would like to make one comment.

There is an apparent incongruity of an agency perpetually beset by money problems having unlimited resources to "stonewall" and frustrate employees in the exercise of their collective bargaining rights under the law that would seem to warrant the closest scutiny of this subcommittee.

Meanwhile, Border Patrol agents in the field are dealing with increasingly aggressive and violent illegals, smugglers, and "pachuco" type border gangs.

In Chula Vista we now have vehicles known as "war wagons" with all glass replaced by mesh screening. They were pressed into service because of continual rock throwing.

In El Paso, a gang of border hooligans was bold enough to overpower a lone BPA in broad daylight and would have executed him with his own pistol, but for the intervention of Mexican officials.

Yet, the INS has not provided safety equipment such as body armor for all of its officers and continues the dangerous practice of one-man patrols in isolated areas because of manpower shortages.

Some areas, specifically Chula Vista, Calif., have been termed "war zones" by the press and it is an apt description, as officers have to be assigned to guard employee parking lots and helicopters are sometimes hit by sniper fire and caused to crash by a barrage of rocks.

Yet, only a few of those who assault our officers are criminally prosecuted.

A recent example is the case of an officer who, while working alone, was shot and seriously wounded by an illegal he was attempting to apprehend. The chance presence of a fellow officer in the immediate area saved this agent's life: yet the INS refuses to issue body armor or utilize two-man patrols in the area and the U.S. attorney refused to prosecute for assault on a Federal officer.

At present, his assailant only faces charges under the New York State Penal Law for possession of an unregistered handgun.

Still further evidence of a lack of concern for employee safety is shown by the INS refusal to undertake extensive functional reliability testing of the presently issued sporting rifles that were never intended for law enforcement use, despite the detailed report of a range officer that indicates said rifles frequently malfuntioned under the controlled conditions of familiarization on the range during daylight hours.

The sad state of our vehicle fleet is another example of both the lack of commitment to border enforcement by the executive branch and internal mismanagement by INS of its already inadequate resources.

Four-wheel-drive vehicles with catalytic converters and factory warning against off-road use were sent to areas where the potential for brush fires is high.

As recently as last month, line stations in the southern and western regions had three and four officers riding around in one vehicle or were limited to 10 miles per 8-hour shift because INS had run short of funds to purchase gasoline.

We publicized that fact somewhat while we were in El Paso and they managed to temporarily dig down deep to keep the media off their back.

But after 10 days, they were back to usual. Cutbacks in operation, especially traffic check because of lack of funds. In the Laredo sector, 72 percent of their vehicles are over the recommended replacement mileage. Many of them have over 100,000 miles on them.

Northern border BPA's are driving 1974 vehicles with over 100,000 miles that are so badly eaten up by road salt, that exhaust fumes enter the passenger compartment, endangering both the officers and the aliens in custody.

I have some copies of the reports on those vehicles attached. The examples are typical of a fleet that, in many locations, continually ha approximately 20 percent of its vehicles disabled awaiting repairs.

Yet, parts are not stocked and funds are sometimes not availab for commercial purchase. It's our understanding that the present stat of the vehicle fleet is due in part to the failure of INS to purchase 19 vehicles authorized in the fiscal 1979 budget, the funds earmarked fo purchase of those vehicles having been diverted to other uses prior t the fourth quarter of that fiscal year.

While all the foregoing factors have had a most deleterious effec on BPA morale, the unfairness of the pubilicity generated by the un fortunate indictment of four Chula Vista officers has driven an already low esprit de corps to rock bottom.

The Justice Department went to such lengths to publicize the indictments that one was left with the impression that four organized crim figures had been brought to justice. Much more typical of the majority of Border Patrol agents is the kind of service enumerated in a recen newspaper article entitled, "Border Patrols' Acts of Kindness Ofte Overlooked."

Many border patrolmen bitterly point out that BPA Frank Hopkinson's heroic act that recently earned him a medal of merit from Mexica civic groups—Mr. Walsh presented him with one of those medals—apparently wasn't worthy of the same publicity as the Chula Vista indictments, where Mr. Civiletti chose to issue a press release to the whole world on the indictments.

Yet the two incidents occurred at approximately the same time.

Although employee misconduct and the adverse publicity it generates is of great concern to us all, we believe that a detailed review by the subcommittee will substantiate our contention that the incidenc of misconduct is actually quite low and certainly does not merit supplemental funding to increase the office of professional integrity to 1 percent of the total work force when those total resources are so sorely needed by operational activities of this service.

It is, indeed, curious that in a time of high unemployment and an impending recession, the executive branch seems quite willing to commit millions of dollars to increasing the INS internal security organ's capability to investigate anonymous complaints, but is unwilling to properly fund and staff the functions of this service that would make additional jobs available to American citizens seeking employment.

In conclusion, we would urge this subcommittee to maintain a close and continuous oversight of the funds authorized and appropriated for INS inspections, investigations, and Border Patrol functions to insure that the intent of the Congress is adhered to during the coming fiscal year.

It seems that those who disagree with our present immigration statutes prefer to circumvent them by allowing only token enforcement rather than take on the political hot potato of changing the act.

However, until such time as new legislation is passed, Immigration employees sworn to enforce the present law are out there risking their lives daily to do so and they deserve nothing less than the complete support of the executive branch, the Congress, and the American public. Thank you.

Mr. HALL. Thank you, Mr. Bevans. I assume that you wish the attachments to your statement to be made a part of the record?

Mr. BEVANS. Yes, sir, I would appreciate that.

[The statement of Mr. Bevans follows:]

NATIONAL BORDER PATROL COUNCIL
OF THE
American Federation of Government Employees
affiliated with AFL-CIO
[illegible]

STATEMENT
OF
THE NATIONAL BORDER PATROL COUNCIL
BEFORE

SUBCOMMITTEE ON IMMIGRATION,
REFUGEES & INTERNATIONAL LAW

Concerning

FY 1981 I&NS Budget

March 12, 1980

Given By
Richard Levans
Council President

TO DO FOR ALL THAT WHICH NONE CAN DO FOR HIMSELF

We appreciate this opportunity to present our comments on the proposed fiscal year 1981 Budget of the Immigration and Naturalization Service for the consideration of this Subcommittee.

I&NS figures indicate that the Border Patrol apprehended in excess of 889,000 illegal aliens in FY '79, an increase of 27,000 over the previous year. Apprehensions for the Border Patrol alone have increased by approximately 77,000 in the past two years with virtually no increase in staffing and our officers continue to knowledgeably estimate that three illegals evade apprehension for each one taken into custody. We have no reason to anticipate any decrease in illegal entries during FY '81. On the contrary, the largest Mexican crop failure in the last 20 years, with more than 100,000 peasant families in the state of Oaxaca alone having lost their entire harvest, would indicate a substantial increase in pressure during the coming year.

Our organization is disturbed by the implication of Acting Commissioner Crosland's statement before this Subcommittee on February 27 that we need not be concerned by the entire 2,000 miles of the Mexican border, since most entries occur in just a few areas. While geographic and demographic variations do tend to favor a heavier concentration of entries in certain areas, past experience such as Operation Shortstop in 1977 has shown that when our enforcement capabilities are concentrated in high traffic areas the pressure noticeably decreases there and increases elsewhere, much like the displacement of water. However, it is not our intent to in any way minimize the severity of the situation in Chula Vista and El Paso; theirs is an increasingly dangerous job and becomes even more so as the escalating flood of illegals threatens to inundate these areas.

Meanwhile, the long neglected and sadly understaffed northern border has recently come to the attention of the Northeast Governors' Conference because of the increased flow of illegals through the two and three hundred mile gaps between small stations along our boundary with Canada. Their concern over illegal aliens displacing American labor is apparently shared by Secretary of Labor Ray Marshall, who has stated that the unemployment rate could be reduced to less than 4 percent if illegal aliens were not present in the U. S. In support of the Governors' Conference and Mr. Marshall's contentions, the February 28 New York Times report of an as-yet unreleased Labor Department survey which debunks the totally unsupported but often articulated myth that wetbacks only take jobs that Americans don't want. That survey indicates that the groups most heavily impacted, young people, minorities, and especially young people of minority groups, would be willing to take low-paying service jobs if they were available.

One of the major stumbling blocks to effective border enforcement is the multi-faceted and continual problem of inadequate staffing and grade structure in the Border Patrol. The entry level for Trainee Agents is Grade GS-5, salary $11,200 per year. The 1978 reduction of the entry level from GS-7 to GS-5 has both hindered the INS in recruiting the best candidates and has worked a grave financial hardship on new officers and their families, especially in high cost of living areas in the "sun belt." Our trainee officers in some areas are eligible for food stamps and other public assistance. The Justice Department recently admitted that the lowered entry level was nothing more than a de facto Affirmative Action program, undertaken to attract Hispanic, black and female officers. It was taken at a time when some trainee classes were approximately 50 percent Hispanic and has proved ineffectual in recruiting blacks and females and in fact may have discouraged candidates in those categories because of the combination of required relocation in the "sun belt" and the lowered entry salary.

The duties of a journeyman BPA have been clearly shown by both INS management and the union to warrant a grade of GS-11, yet those positions continue to be undergraded at the GS-9 level as a result of unfavorable Justice Department intervention with the Civil Service Commission at the conclusion of a five year study completed in 1978. This undergrading is the largest single factor in a turnover rate significantly higher than the government-wide average. We are unable to give exact turnover figures due to the inability or unwillingness of INS to provide such statistics. However, as a consequence, we are losing the mature, experienced officers and are continually saddled with larger than necessary expenditures to recruit and train replacements at a cost of approximately $30,000 each. Those seasoned officers are drawn to other Government agencies and other functions within the INS by higher grade structure that afford them fair compensation for the work that they perform.

The continual understaffing which provides no more than token enforcement is graphically illustrated by the fact that money sent or taken back to Mexico by illegals in the United States replaced tourism as Mexico's third largest source of income last year. Yet despite a 1977 survey which indicates that 90 percent of the American people want effective enforcement of the immigration laws, a desire which has been reflected by the Congress, and especially by this subcommittee in recent years. the Executive Branch has shown a haughty indifference to the will of the people expressed through their elected representatives, the most recent example being the contrived hiring ceiling imposed by the Office of Management and Budget that stopped the filling of the majority of the 495 additional Border

Patrol positions authorized and funded by the Congress for FY '80.

In addition, mismanagement and poor utilization of the manpower already on board further exacerbates an already bad situation. The continuing practice of using GS-9 Border Patrol Agents to avoid filling lower grade level support jobs such as Detention Officer, Radio Operator and general maintenance positions is a waste of trained and capable manpower. Failure to create and fill sufficient Anti-Smuggling positions has resulted in the continued detailing of journeyman officers to this higher graded work without commensurate remuneration.

It is our understanding that I&NS has the largest Personnel and Staffing apparatus as well as the largest Labor Relations staff in the Justice Department, although it is by no means the largest agency. Yet the Service appears unable to keep up with day to day transfers and promotions, let alone bringing on new hires to fill positions authorized by the Congress. The I&NS Labor Relations staff appears to create problems rather than attempting to solve them. This Council, which represents Border Patrol employees only, currently has approximately one dozen grievances pending arbitration and approximately one dozen Unfair Labor Practice Charges pending before the Federal Labor Relations Authority, with several more to be filed in the near future. The irresponsible attitude of I&NS is perhaps most graphically illustrated by the fact that the Service consistently refuses to discuss and attempt to settle disputes short of third party litigation, and always has the staff and funds available to litigate even though losing a majority of the time. The national average indicates that management should win 60 percent of arbitration decisions; yet during the past 14 months the union has won four of six arbitrations in the Border Patrol bargaining unit alone.

The apparent incongruity of an agency perpetually beset by money problems having unlimited resources to "stonewall" and frustrate employees in the exercise of their collective bargaining rights under the law would seem to warrant the closest scrutiny of this Subcommittee. Meanwhile, Border Patrol Agents in the field are dealing with increasingly aggressive and violent illegals, smugglers, and "pachuco" type border gangs. So much glass was broken out of Border Patrol vehicles that vehicles known as "war wagons" with all glass replaced by mesh screening were pressed into service. In El Paso, a gang of border hooligans were bold enough to overpower a lone BPA in broad daylight and would have executed him with his own pistol but for the intervention of Mexican officials. Yet the INS has not provided safety equipment such as body armor for all of its officers and continues the dangerous practice of one man patrols in isolated areas because of manpower shortages. Some areas, especially Chula Vista, California, have been termed "war zones" by the press, and it is an apt description, as officers have to be assigned to guard employee parking lots and helicopters are sometimes hit by sniper fire and caused to crash by a barrage of rocks. Yet only a few of those who assault our officers are criminally prosecuted .

A recent example is the case of an officer who, while working alone, was shot and seriously wounded by an illegal alien he was attempting to apprehend. The chance presence of a fellow officer in the immediate area saved this agent's life, yet the I&NS refuses to issue body armor or utilise two-man patrols in the area and the U. S. Attorney refused to prosecute for Assault on a Federal Officer. At present, his assailant only faces charges under the New York State Penal Law for Possession of an Unregistered Handgun.

Still further evidence of a lack of concern for employee safety is shown by the I&NS refusal to undertake extensive functional reliability testing of the presently issued sporting rifles that were never intended for law enforcement use, despite the detailed report of a range officer that indicates said rifles frequently malfunctioned under the controlled conditions of familiarization on the range during daylight hours.

The sad state of our vehicle fleet is another example of both the lack of commitment to border enforcement by the Executive Branch and internal mismanagement by I&NS of its already inadequate resources. Four wheel drive vehicles with catalytic converters and factory warning against off-road use were sent to areas where the potential for brush fires is high. As recently as last month, line stations in the Southern and Western Regions had three and four officers riding around in one vehicle or were limited to ten miles per 8-hour shift because I&NS had run short of funds to purchase gasoline. In one Border Patrol Sector, 72 percent of their vehicles are over the recommended replacement mileage, many of them with over 100,000 miles. El Paso has 23 vehicles with 130,000 or more miles on them. Northern border BPAs are driving 1974 vehicles with over 100,000 miles that are so badly eaten up by road salt that exhaust fumes enter the passenger compartment, endangering both the officers and the aliens in custody. (Reports attached) These examples are typical of a fleet that in many locations continually has approximately 20 percent of its vehicles disabled awaiting repairs. Yet parts are not stocked and funds are sometimes not available for commercial purchase. It is our understanding that the present state of the vehicle fleet is due in part to the failure of I&NS to purchase 190 vehicles authorized in the FY '79 budget, the funds earmarked for purchase of those vehicles having been diverted to other uses prior to the fourth quarter of that fiscal year.

While all the foregoing factors have had a most deleterious effect on BPA morale, the unfairness of the publicity generated by the unfortunate indictment of four Chula Vista officers has driven already low espirit de corps to rock bottom. The Justice Department went to such lengths to publicize the indictments that one was left with the impression that four organized crime figures had been brought to justice. Much more typical of the majority of Border Patrol Agents is the kind of service enumerated in a recent newspaper article titled "Border Patrol's Acts of Kindness Often Overlooked." Many Border Patrolmen bitterly point out that BPA Frank Hopkinson's heroic act that recently earned him a Medal of Merit from Mexican civic groups, apparently wasn't worthy of the same publicity as the Chula Vista indictments.

Although employee misconduct and the adverse publicity it generates is of great concern to all of us, we believe that a detailed review by this Subcommittee will substantiate our contention that the incidence of misconduct is actually quite low and certainly does not merit supplemental funding to increase the Office of Professional Integrity to one percent of the total workforce when those resources are so sorely needed by operational activities of this Service. It is indeed curious that in a time of high unemployment and an impending recession the Executive Branch seems quite willing to commit millions of dollars to increasing the I&NS internal security organ's capability to investigate anonymous complaints, but is unwilling to properly fund and staff the functions of this Service that would make additional jobs available to American citizens seeking employment.

In conclusion, we would urge this Subcommittee to maintain a close and continuous oversight of the funds authorized and appropriated for I&NS inspections, investigations and border patrol functions to ensure that the intent of the Congress is adhered to during the coming fiscal year. It seems that those who disagree with our present immigration statutes prefer to circumvent them by allowing only token enforcement rather than take on the political hot potato of changing the Act. However, until such time as new legislation is passed, Immigration employees sworn to enforce the present law are out there risking their lives daily to do so and they deserve nothing less than the complete support of the Executive Branch, the Congress and the American Public.

Thank you. I would be happy to answer any questions you may have.

El Paso Herald Post October 3, 1979

Border Patrol's acts of kindness often overlooked

By BOB DUKE

Herald-Post Washington Bureau

WASHINGTON — Border patrolmen often are accused by American Hispanic groups of using unnecessary force when they apprehend Mexican illegal aliens. But the critics invariably ignore the acts of kindness shown by the patrolmen to such aliens.

The situation is similar to the proverbial public criticism of the U.S. media for allegedly printing all the bad news while ignoring the good news. Hispanic critics of the Border Patrol, a federal task force feels, should balance its criticism with favorable reports when justified.

THE BORDER Relations Task Force, created by former Immigration and Naturalization Service Commissioner Leonel Castillo, did a thorough study of conditions along the nearly 2,000-mile U.S.-Mexico border and concluded that complaints about the Border Patrol were mostly unjustified.

Instead of harassing and intimidating illegal aliens, the study showed, border patrolmen usually made every effort to assist them. What irks some Hispanic organizations, apparently, is that the patrolmen escort the illegals back across the border, rather than permit them to stay in the United States.

There have been numerous incidents in the past few years indicating the Border Patrol's compassion for unlawful immigrants. These acts of kindness and mercy are cited by the task force without mentioning names of the officers involved.

FOR EXAMPLE, 33 illegals suffering from lack of water and food were rescued in the Yuma desert by Border Patrol agents last year. The illegals probably would have perished had it not been for the patrol.

Unlawful immigrants apprehended by the patrol always are advised of their right to see a Mexican consular officer.

At El Centro, Calif., the Border Patrol aided a female illegal alien who had become separated from her small son before she was smuggled into this country from Mexico. In a cooperative endeavor the patrol and Mexican federales located the child in Mexicali.

THERE ARE many more examples of the patrol's kindness to unlawful immigrants. In addition, there are related incidents of assistance given by INS personnel and local officials to Mexicans.

At El Paso, an elderly Mexican was pushed into the Rio Grande after being robbed by a border bandit gang and was rescued by a Border Patrol agent.

At another border point, a Border Patrol supervisor uses his own plane to ferry medical supplies, doctors and nurses to church missions in Mexico and Central America at no cost to the sponsoring group except for gas, oil and lodging. At the same time another patrolman accompanies burned Mexican and American children to the Shrine Burn Center at Galveston.

ILLEGAL ALIENS in Tucson are given a form with which to request the Mexican consul's help in collecting wages due or filing claims for taxes withheld from their salaries.

At Nogales, Ariz., U.S. officials awarded a plaque to the chief of Mexican immigration at Nogales, Sonora, Mexico, in recognition of his contribution to cooperation in that area between the two countries.

Mexican consular officers themselves advised the task force they knew of no mistreatment of illegals by INS personnel. They had heard some complaints of discourtesy, they said, but nothing more.

THE TASK force didn't want to give the impression that INS hadn't made any errors of judgement in relations with Mexicans. In fact, it was as eager to point out these errors as it was to cite positive points.

For example, there have been complaints, notably at Calexico, Calif., about delays by INS in conducting deportation hearings for Mexican illegals who had served time in federal prisons. Occasionally, the aliens, once eligible for release, are forced to remain at El Centro 10 days to two weeks because their files aren't available.

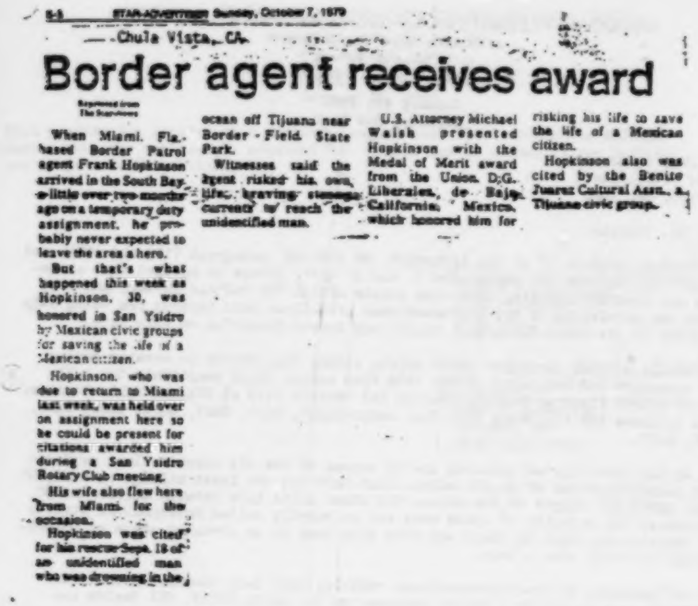
There also are times, the task force said, when Mexican officials refuse to cooperate with the Americans. Specifically, police in Mexicali and Tijuana fail to respond promptly when called to deal with local "hoodlum rock throwers" who harass border patrolmen and create diversions for smugglers.

THERE ARE other positive aspects in the present border situation, though, the task force said.

Relations between cities on both sides of the border are better than in the past and there's a freer flow of information. Furthermore, Mexicans and Americans living on the border appear to be showing more tolerance for each other.

Even so, there are still problems.

Border Patrol officers told the task force that transient aliens from Juarez and Tijuana traveling across Arizona are "more belligerent than those who enter through the desert." Apart from that, many of the aliens have handbills on their persons advising them of their rights and telling them to resist arrest or, failing that, attempt to escape.



S-5 STAR-ADVERTISER Sunday, October 7, 1979

Chula Vista, CA.

Border agent receives award

Reprinted from The Star-News

When Miami, Fla.-based Border Patrol agent Frank Hopkinson arrived in the South Bay a little over two months ago on a temporary duty assignment, he probably never expected to leave the area a hero.

But that's what happened this week as Hopkinson, 30, was honored in San Ysidro by Mexican civic groups for saving the life of a Mexican citizen.

Hopkinson, who was due to return to Miami last week, was held over on assignment here so he could be present for citations awarded him during a San Ysidro Rotary Club meeting.

His wife also flew here from Miami for the occasion.

Hopkinson was cited for his rescue Sept. 18 of an unidentified man who was drowning in the ocean off Tijuana near Border - Field State Park.

Witnesses said the agent risked his own life, braving strong currents to reach the unidentified man.

U.S. Attorney Michael Walsh presented Hopkinson with the Medal of Merit award from the Union D.G. Liberales de Baja California, Mexico, which honored him for risking his life to save the life of a Mexican citizen.

Hopkinson also was cited by the Benito Juarez Cultural Assn., a Tijuana civic group.

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
AFFILIATED WITH THE AFL-CIO
U. S. BORDER PATROL
AFGE LOCAL 2724

January 21, 1980
Buffalo, New York

Mr. Jack E. Gorman
Chief Patrol Agent
Buffalo, New York

Dear Mr. Gorman:

Pursuant to Article 17 of the Agreement, AM 2227.05, paragraph (10) and (11), and AM 2227.10, Section IV, paragraphs 1. and 4. a./b. please be advised that an unsafe and hazardous working condition exists within the Buffalo Sector, and that under the provisions of the aforementioned guidelines said hazards are being duly reported to the Union-Management Health and Safety Committee on this date.

The unsafe working condition which exists within this Sector is created during the operation and occupancy of the 1974 Ford sedans which constitute the bulk of the patrol fleet at Buffalo Station and vehicle 0412 at Niagara Falls Station. This includes the following 1974 Ford sedans:0401, 0402, 0405, 0407, 0408, 0409, 0412, 0413.

All of the above listed vehicles are in excess of the GSA pursuit fleet replacement reccommendation of 60,000 miles. Unit 0409 has the least mileage with 75,891 while 04913 has logged 99,296 miles. The other units have between 80,000 and 90,000 miles, the majority of which were put on heavily salted metropolitan streets and expressways. Most of these vehicles have been in an advanced state of deterieration for well over a year.

The deficiencies of the aforementioned vehicles have been enumerated and described in some detail in a report prepared by Mr. Keith MOYER, BUN Health and Safety Officer, Union. A copy of his report is attached.

Since the advent of the cold winter months, it has become increasingly evident that the act of driving the Ford sedans is hazardous to the health of not only the driver, but the even more unfortunate passenger, often an alien in custody who must ride in the rear seat. Constant complaints of headaches, nausea, and drowsiness caused by exposure to carbon monoxide laden exhaust fumes leaking through rusted out body panels and floorboards became commonplace, until recently employees concerned with the lingering effects of this exposure to noxious fumes found it necessary to submit Forms CA 1 & 2.

Aside from the obvious health hazard created by the exposure of the occupants of these vehicles to leaking exhaust fumes, the danger of operating a vehicle with a worn out suspension remains a frightening reality under normal driving conditions, to say nothing of the occasional emergency situation of a pursuit.

Given the above conditions, it is the reccommendation of the below listed Union Representatives that the following actions be implemented immediately pending the finding of the Health and Safety Committee:

1. That all 1974 Ford sedans currently in use in the Buffalo Sector be deadlined, and that furthermore employees not be required to operate same, under the provisions of Article 17, paragraph F.

2. That any employee of the Buffalo Sector Border Patrol who has operated a 1974 Ford sedan and desires a blood test be allowed one at Govt. expense.

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
AFFILIATED WITH THE AFL-CIO
U. S. BORDER PATROL
AFGE LOCAL 2724

January 21, 1980

3. That pending the receipt of a permanent replacement fleet within the Buffalo Sector suitable vehicles be acquired for interim use as needed at the Buffalo and Niagara Falls Stations.

Thomas P. Haggerty

Thomas P. Haggerty
Vice President
AFGE Local 2724

John G Woodward

John G. Woodward
Steward, BUN
AFGE Local 2724

January 19, 1980

REPORT OF SAFETY COORDINATOR

SUBJECT: UNSAFE VEHICLES

1. Carbon Monoxide fumes due to corrosion and rust of vehicles:
   - a. Driver's side - from front to rear have large holes which is allowing fumes to enter the passenger compartment.
   - b. Trunk areas are rotted from corrosion also, allowing fumes to enter via back seat areas.
   - c. Rear window defoggers - take in air from trunk compartment, further allowing Carbon Monoxide fumes to enter at greater degree. the defoggers are most necessary units for safe visibility especially in our area with climatic conditions, ie: snow, humidity, etc.

   Corrective measures were taken to repair said trunk areas. plastic roofing cement and 15 pound felt roofing paper were used. these measures may have decreased some fumes, but at present fumes are entering from various other places as stated above, as well as areas that are not readily accessible to patching procedures.

2. Front seats on several vehicles are at the point of completely falling through the body of the vehicles due to rust and corrosion; inevitably causing damage to vehicles, injury to occupants. the personal health and well-being of personnel are at stake.

SEAT a. Springs on approximately 10 1974 Ford vehicles are completely worn out, need replacement, thus having driver sitting very low, creating physical problems ie: no lumber support (back and necks). The safety problems involved: decreased visibility, decreased maneuverability which could cause traffic mishaps endangering personnel and public.

   These springs are being exposed to futher corrosion due to holes, some of which measure 12"x18" in size.

3. Suspension Systems:
   Several of the 1974 Ford vehicles have worn springs, shocks and suspension bushings both front and rear.
   Possible safety hazards involved:
   - a. uncontrollable steering on rough roads.
   - b. hard cornering
   - c. emergency maneuvering would be hazardous.

   Emergency pursuits, chases would be hazardous to personnel, occupants, and other motorists.

Numerous complaints from personnel of headaches, nausea, burning eyes, and drowsiness have been noted. Carbon Monoxide Monitor Chips have been installed in several vehicles. These showed positive proof that Carbon Monoxide fumes are present as the chips have darkened and one has turned completely black.

It is my opinion as Sector Mechanic and Health and Safety Officer that the following vehicles be permanently deadlined for the health, safety and well-being of our personnel, occupants in custody and the general public.

VEHICLE #	SAFETY PROBLEMS
401	Exhaust fumes, worn seat springs, suspension system.
402	Seat springs, suspension weak.
405	Underside completely rusted, fumes, seats, suspensions.
407	Same as 405
408	Same as 405, 407.
409	Same as 405, 407, 408.
412	Suspension, seat springs, fumes.
413	Same as 405, 407, 408, 409, listed above.
414	Out of service. Extensive corrosion and rust, trunk and underside areas. Also same problems listed as 405, 407, 408, 409, and 413.

In my opinion, all 1974 Ford Sedan vehicles should be excessed under the terms of "parts only, or junk".

KEITH PAUL MOYER
Keith P. Moyer
HEALTH AND SAFETY OFFICER
JANUARY 19, 1980

Mr. HALL. I gather from or listening to you two gentlemen, that it appears that there exists between INS and both of your organizations nearly an adversary position between the agencies, which I certainly hate to hear.

I have two or three questions that, Mr. Harpold, I would like to direct to you. Your statement reflects or refers to the resolution of long-standing labor-management problems. Can you be more explicit on what these problems are and what progress is being made to work them out?

Mr. HARPOLD. I think the basic problem is one of communication. I think the reason that INS employees organized into a union in the first place, and we were the first Federal agency to have a nationwide union, I think the reason for that was so we could communicate with our managers.

And I think a couple of border patrolmen down in the line somewhere, or immigrant inspectors back in the fifties couldn't talk to their supervisors. So they formed a union to do it.

The problem still exists in that instead of improving communication, we seem to be further apart. Instead of being able to talk directly to our managers, we have to talk through a paid professional staff of labor relations specialists. This is certainly not the objective of INS employees in forming the union. We feel very mission-oriented. We still do. We still feel very strongly toward the INS and what it's doing.

Yet, we find ourselves ever further from the decisionmakers.

For example——

Mr. HALL. Well, is any progress of any kind being made to alleviate that condition?

Mr. HARPOLD. We have made recent progress in that regular monthly meetings have been reinstituted between Mr. Bevans and myself and Mr. Crosland.

This occurred during the month of February. We hope from there this will filter on back down to where we once again can have meaningful relations at the regional level and at the district and the sector level.

Mr. HALL. You mentioned the institution of better control over issuance and use of viistor's visas. Can you elaborate to some degree on that?

Mr. HARPOLD. This is in the AFL-CIO policy statement. We feel that there was a turning point in the immigration problem about 2 years ago when we had new, cheap air fares, transatlantic and transpacific air fares and the rise of foreign currencies against the dollar became so great and we had almost a phenomenal increase in foreign travel to the United States.

I believe, and I could be corrected, that the visa office estimates that it's issuing something like 10 million nonimmigrant visa during 1979. And it appears now that Atlantic and the Pacific are no more a barrier to illegal immigration than the Rio Grande ever was.

Now, we have the era of the visa abuser: The visitor that comes and overstays and never goes back home.

One of the answers to this is what's called departure control. I think that's what the committee meant to institute in giving the INS the $7 million last year to computerize that index.

Our only comment there is, of course, that's the first step. It can only be done through a computer process. But that makes no sense unless you beef up the investigative staff to go out and look for these nonimmigrant overstays.

So it's fine to give us the computer capability to do that in the first place, but in the end, we have to have people to go out and work these leads.

Mr. **Hall.** You speak of your consultation problems, talking things over with the management. Then you state that every issue—I'm looking at page 8—"during the past few months, we have been absolutely stymied in our efforts to do that."

That is, have consultations. "Every issue must now be litigated."

Do I understand you to say that there is no consultation at all at this time, and that all issues are having to be litigated?

Mr. **Harpold.** That is basically correct, with the exceptions of the recently instituted meetings between Mr. Crosland and ourself. And we are awaiting results from those meetings concerning these problems.

Now, last December, we had a national meeting here where we brought in our national officers to Washington to meet with national INS management to solve problems. We brought in several extra people at our own expense. But we were meeting with sixth and seventh echelon people from the central office. And none of the people that we were meeting with were in a position to make a decision concerning a problem.

And as a consequence, this became a very frustrating experience and a very wasteful one for us. And, in fact, it virtually demoralized my union leadership because they said, why come to Washington when all you're going to talk to is people that can only listen and not make a decision?

Mr. **Hall.** Have you discussed the fact that you are not talking to the right men with the Acting Commissioner?

Mr. **Harpold.** Yes; we have.

Mr. **Hall.** Have you received any satisfaction or dissatisfaction from that conversation, any results, I should say?

Mr. **Harpold.** Not as yet. He has taken these problems under advisement. We have yet to see the concrete results from them.

Mr. **Hall.** How long has it been since you had that consultation with the Commissioner?

Mr. **Harpold.** Our first meeting was on February 11.

Mr. **Hall.** You're not indicating that that's an unduly long period of time to try to get some results.

Mr. **Harpold.** Well, at this point, I'm indicating a spirit of hope, let's put it this way.

Mr. **Hall.** You state that the INS on page 9 has 11 full-time labor-management specialists and that they are expending their efforts almost solely against the union.

Could you be more explicit about that?

Mr. **Harpold.** Let me give you two examples. We had a case in Laredo, Tex. There are two bridges in the city of Laredo. They're about three-quarters of a mile apart. One is larger than the other. The smaller has one inspector and an inspector from the larger bridge has to relieve the single inspector at the smaller bridge. There is parking for Government vehicles only at the bridge and the INS would not permit a Government car to be used to drive back and forth. The three-quarter mile walk is dark and dangerous and the union was able to document many incidents that had occurred. The union grieved the matter but insisted on resolving the basic problem. The INS challenged the union on an esoteric labor-management point, nothing was done to resolve the basic problem. And that's the fact that the single inspector or inspectress has to walk along that dark and dangerous stretch of stree when he or she could be driving and everyone would be happy.

Now, a second case occurred in San Francisco just recently. We arbitrated a case there involving the use of investigators to do clerical and contact representative work, a practice that had been abandoned everywhere else in the country.

The INS flew in four labor management relation specialists, a grade 14 and 13 from the central office here in Washington, two grade 12s from the regional office in San Pedro, Calif. We used two employee representatives. These are immigration employees who moonlight or second-shot as employee representatives. You know, it's a problem that could be resolved. But yet, the INS is using some very high powered expensive professionals in what we seem to feel or feel is just an effort to forestall solving problems.

Mr. HALL. I'm looking at the bottom of page 2, in which you talk about employee morale. It being affected by three principal ways. First, the uncertainty of immigration policies. Finally, at the bottom, of page 2 you say the administration at all levels, including management within the Immigration and Naturalization Service has failed to move rapidly enough and frequently not at all to resolve employee problems.

Now, as I understand it, these employee problems are contributed to greatly by, No. 1, the fact that there are not enough employees to do a good job.

Mr. HARPOLD. That's true.

Mr. HALL. And second, money problems. And what is the third? I never did find what your third principal way was.

Mr. HARPOLD. The third principle was the failure of the problem-solving process within the INS. There were three points. I made the point of the state of law. Second point was a lack of resources. And the third was the breakdown or the refusal of INS management to get with the union and resolve employee problems before they go to litigation.

Mr. HALL. Well, of course, the union would not have a great deal to do in solving the matter of not getting the proper allocation of people from the various authorities here in Washington, would it?

Mr. HARPOLD. Well, I think the union is doing a lot. I think we're working through AFL-CIO to get their support. I think coming here to testify——

Mr. HALL. Don't misunderstand me. I don't mean it that way at all. You heard me elaborate some this morning. I think that the fact that we have not enough people to do a job properly is contributing greatly to the morale factor.

Mr. HARPOLD. That's true.

Mr. HALL. Also, I think that the fact—well, I think that that creates a tremendous morale factor. And the fact that Government here in Washington is not really responsive enough to the needs of those people down there on the line, they're the ones who are going to have to help solve the problems, as I understand it.

I don't know what it is that the Acting Commissioner can do. And I'm asking you just as a question—what can he do that he's not already doing to try to help in the morale factor of this situation?

Mr. HARPOLD. Well, I think the one thing——

Mr. HALL. Or his office, I should say, not specifically any one particular person, but his office.

Mr. HARPOLD. All right. I think the one thing that we ought to be doing, and that's the union and management both, is making an extremely concerted effort to resolve employee problems at every single level in the service.

I think that this ought to be one of the utmost tasks of both management and union.

I don't think that we ought to be meeting in adversary circumstances. I think we ought to be joining together as often as possible to resolve these issues before they get to the point where they've got to be litigated and they've got to fester and they've got to spread discontent and everything else.

But certain things, you know, like an adverse action, a suspension or something like that, that's true. You've got to have, you know. sometimes that type of deal where you do have to meet as adversaries.

But the rest of these things concerning working conditions, staff and other things can be worked out.

I would like to see the Service, instead of holding the union at arm's length, accept the union as a full partner in representing, yet resolving employee problems and trying to keep the lid on regarding employee morale.

Mr. HALL. Of the 11,000 employees, how many are members of the union?

Mr. HARPOLD. Well, we represent a total of about 6,500.

Mr. HALL. All right. Mr. Bevans, I would like to ask you one or two questions with reference to your testimony. Last year, with the Commissioner and two others we appeared on a television program in Dallas dealing with the alien problem.

During that program, it was developed, and this is somewhat contrary to page 2 of your testimony here, to the satisfaction of not everyone who was on the program, but to certainly my satisfaction, that, No. 1, there was very little exploitation of illegal aliens that had come into this country from the standpoint of wages that the majority of those people were making minimum wage, or above.

No. 2, they were coming over here solely for economic reasons. I think you indicated that maybe the money returning to Mexico is creating the third largest source of income next to tourism, for the country.

And third, this was based on some report. I want to say the Roper Report, but I'm not certain if that is correct. The report would seem to be contradictory to what Secretary Marshall indicates and what the New York Times report says, which indicated that there was a certain work force in the United States that would not do what we call the stoop labor, for want of a better word, and that the people who were coming over here as illegals were not really displacing that many people from the work force.

Now, has something developed since 18 months ago that has changed that picture?

Mr. BEVANS. Yes, sir. I think in the first place you can't lump a supposition that all of these people are either exploited or not exploited. Some of these people in agricultural endeavors very definitely are exploited.

The experience of our officers in Arkansas, in detail about a year and a half ago were that people were working 12 hours a day in 100° heat for $10 a day.

They were living in quarters that dogs wouldn't live in. That's exploitation.

But the illegal alien problem isn't just that. It's service industries and in the major cities, where they are drawing very, very good salaries and they are displacing American people.

Mr. HALL. I assume, then, that you support the New York Times report, not yet released by the Labor Department, which articulates the myth that wetbacks only take jobs that Americans don't want?

Mr. BEVANS. Yes, sir. That was the thrust of their survey. Apparently, they were publicizing a Labor Department study where they had gone out and talked to minority youth who said that they would take a lot of these lower paying jobs, if only they were available.

Mr. HALL. I notice also on page 3, in which you talk about the variout grades, you referred to a low grade entry level of GS–5 for Border Patrol trainees, as well as a continued upgraded journeyman level of GS–9.

What efforts have been made by the unions to upgrade entry level positions as well as upgrade journeyman level positions from 9 to 11?

What reasons are given for maintaining this level at a GS–9?

Mr. BEVANS. We have very little equity in doing anything about the GS–5 entry level position. As I understand it, we had always suspected, and the Justice Department has recently confirmed that it was a de facto affirmative action program. They just arbitrarily dropped the entry level which for years had been GS–7 to GS–5, approximately 2, 2½ years ago.

On the GS–9 journeyman grade, the union literally forced the Civil Service Commission to start that study in 1973.

Mr. HALL. Is that the 5-year study?

Mr. BEVANS. Yes, sir. Both a team of union people who were familiar with the factor evaluation system of grade classification and also a team of field management Border Patrol people, mostly chief patrol agents, were brought in simultaneously.

The union had their task force. The Commissioner's task force was working entirely on their own. And both groups came up with a very solid justification for a journeyman grade of GS–11.

As a matter of fact, the management people outdid us just a little bit, theirs bordering on the edge between GS–11 and 12.

Mr. HALL. You state on page 3—I'm having to refer to your testimony.

Mr. BEVANS. Yes, sir.

Mr. Hall. You said we're unable to give exact turnover figures due to the inability or unwillingness of INS to provide such statistics.

Do I understand you to say that INS is refusing to turn over to you the turnover figures based upon the grade of service that they may be serving in, who have left for that particular reason?

Mr. Bevans. Yes, sir. About a year ago, we inquired. The only figures that they had available were those who leave the Immigration Service, people who either transfer to another agency, resign, and so on, and so forth.

Mr. Hall. Excuse me for interrupting. Just a moment. Mr. Fish has come in and I would like to defer to him at this time, because we do have a vote.

We've got about 12 minutes.

So Mr. Fish, at this time, I defer to you.

Mr. Fish. Thank you, Mr. Chairman. And because I was at another committee meeting if you've already addressed yourself to a question, please say so, if it's in the record already. I wonder—and this is to either of our witnesses—have any reasons been given for the gasoline shortage on the southern border?

Mr. Bevans. Well, we were told that it had to do with a shortage of funds because of the Iranian student registration program, things of that nature.

There again, that was only rumor. We've never had an official reason for it, sir.

Mr. Fish. Do you remember where that information came from?

Mr. Bevans. I really would have a hard time pinning it down. That it was what we got unofficially from various levels. That was a contributory factor.

Mr. Fish. What is the current status for the Border Patrol's journeyman training?

Mr. Bevans. It has been suspended for the balance of this year for lack of funds, as it has been quite often in the past.

Journeyman training has been scheduled for approximately the last 4 to 5 years. But the biggest majority of the time it's scheduled and then canceled because of a lack of funds.

We still have a great number of journeyman officers that have had no training since they graduated from the academy.

Mr. Fish. Is the Border Patrol presently issuing body armor to officers?

Mr. Bevans. No, sir. They're in the process of issuing it in limited quantities along the southern border only to certain areas. One set of body armor to each four officers.

Mr. Fish. How does this compare with other Government agencies?

Mr. Bevans. One case I'm very familiar with is the U.S. Marshal Service, where they allow their people to go out and purchase their own body armor and then they reimburse them for up to $125 of the cost.

Mr. Fish. This is not an option given to the Border Patrol?

Mr. Bevans. No. The unions have asked time after time for it. For years, we've met with no success at all.

Mr. Fish. Has this been a low-level management response to you? Or have you gotten this from higher up in the department?

Mr. Bevans. This has been a top-level management response.

Mr. Fish. Was any excuse given for this?

Mr. Bevans. It's a matter of money. They're not sure we need it.

Mr. Fish. Any indication it has changed with the raised level of violence at the border?

Mr. Bevans. It has been discussed since the border incidents.

Mr. Fish. Was it discussed in the conversation with Mr. Crosland on February 25?

I know Mr. Harpold had that discussion. I don't know if you were there or not.

Mr. Bevans. I was here for that. I'm not sure whether the body armor was discussed or not. I don't believe it was.

But it had been discussed at the consultations in December, discussed at great length.

Mr. Fish. With respect to assaults on Border Patrol officers, do you have any figures that woud reveal the percentage of prosecutions against individuals who have assaulted Border Patrol officers?

Mr. Bevans. As I mentioned, approximately 10 percent of the assailants are actually prosecuted. The other 90 percent are returned to Mexico or to whatever country.

Mr. Fish. I'm sorry I missed your testimony. I am wondering if some of the problems that we've addressed in past meetings look like they're getting better, such as the question of communication between the Commissioner's office and the members of the Service?

Mr. Bevans. Very recently, it looks like there may be some hope in that direction.

Mr. Fish. Any discussions on reactivating that communication instituted by former Commissioner Chapman?

Mr. Bevans. Yes, sir. That has been reinstituted as of very recently.

Mr. Fish. And you find the availability of the management here in Washington has improved?

Mr. Bevans. We had our first meeting with Mr. Crosland about 2 weeks ago. We're hoping that's an indication of an improved relationship.

We've got a kind of wait and see attitude about it.

Mr. Fish. Can you tell me, finally, what steps are you two gentlemen and the organizations that you represent taking to root out in your own membership those individuals who are the bad apples and the ones who are giving a bad name to the Service?

It seems to me that you can set up all the investigative groups you want and the special people in the department to go and ferret out evil. But it's much better that matters should be handled by those who should be directly concerned, and if not hurt by the existence of the people.

Mr. Harpold. Let me give an example of what we do do. There used to be a long-time custom among inspectors and shipping agents. They'd leave with a bottle of booze in their bag, which would somehow mysteriously appear in what they call their boarding bag.

We, as a union, questioned that practice as being, you know, a very questionable practice. And so, through, and strictly through the use of peer pressure, we caused an entire abandonment of that practice to the point where shipping agents wouldn't even think of offering a bottle of booze on a ship.

Now, we do work that way to eliminate what we consider to be questionable or bad practices. And I offer that as an example.

Mr. **Fish**. Thank you very much.

Mr. **Hall**. Gentlemen, we thank you for your testimony. We apologize again for the delay in having you wait so long.

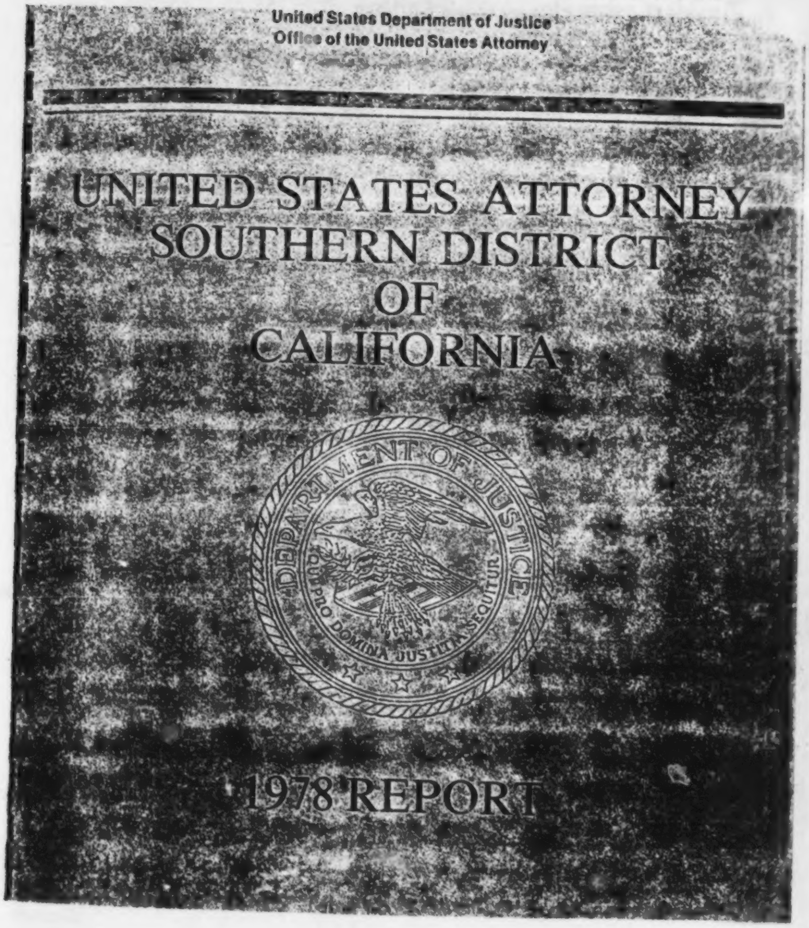
But that's the way things work up here.

Mr. **Harpold**. Thank you.

[Whereupon, at 4:30 p.m., the hearing was adjourned, to reconvene subject to the call of the Chair.]

APPENDIXES

APPENDIX 1



United States Department of Justice
Office of the United States Attorney

UNITED STATES ATTORNEY
SOUTHERN DISTRICT
OF
CALIFORNIA

1978 REPORT

Immigration Violations: Policy Regarding Alien Smuggling

Special mention must be made of the prosecution policies in the Southern District of California relating to illegal alien and immigration violations. As noted above, approximately 400,000 illegal entrants were arrested by Border Patrol and Immigration officials during 1978 in the San Diego region alone. The number of such arrests has increased dramatically over the past several years, far outdistancing the ability of the present law enforcement and prosecutorial resources to cope with the major domestic and international issue. While the federal government continues to look for a workable long-range solution to this perplexing problem, officials along the Mexican border are confronted on a daily basis with the everyday realities of the issue, and must attempt somehow to deal with the many and serious problems presented to law enforcement as a result of widespread violations of federal law.

The sheer numbers of individual illegal aliens arrested obviously precludes prosecution in each and every case. Individual illegal entrants are not prosecuted unless they have an extensive prior record of criminal conduct, or unless they themselves are part of a commercial alien smuggling conspiracy. While such a policy is not without problems, it should be fairly obvious that neither the courts, the United States Attorney, the Border Patrol, nor the prison system could survive an attempt to prosecute each and every illegal entrant. Not only would a contrary policy be futile, but even worse, the effort itself would be so all-consuming that virtually all other federal prosecutorial efforts detailed in this report would be brought to a virtual standstill.

In an attempt to enforce the existing criminal laws relating to illegal immigration against this backdrop, the United States Attorney's Office has developed a prosecution policy that focuses on those who attempt to profit financially from the plight of illegal entrants. This policy emphasizes the prosecution of apparently professional or commercial alien smuggling activities, more specifically, large alien smuggling conspiracies.

Such conspiracies commonly include conspirators who act as arrangers or recruiters in Mexico or other Central American countries whose function it is to "contract" with those desirous of entering the United States illegally to arrange for their entry. Once recruited, and the arrangements for payment and delivery to their final destinations have been made, the aliens are turned over to conspirators whose function it is to guide them across the border illegally, usually in groups of between 10 and 30, or to otherwise attempt to smuggle them into this country. Once successfully across the border, the aliens are transported by other conspirators to "safe" or "drop" houses where the illegal entrants are harbored, frequently under deplorable conditions, by other conspirators until transportation can be arranged for delivery to their ultimate destinations. Cases are common where the aliens are ultimately delivered to Los Angeles, Chicago, New York City, and every major metropolitan and agricultural area of the United States.

Unfortunately, alien smuggling is not monopolized by a few sophisticated or powerful smugglers who can be identified, prosecuted, and jailed--thus eliminating the commercial exploitation of illegal aliens. Rather, it is characterized by an incredible proliferation of smuggling enterprises, some large and some small. It is so lucrative that many smaller operators can succeed alongside the larger, more sophisticated smuggling rings. Therefore, in order to provide something approaching a credible deterrent, this office attempts to prosecute as many smugglers as possible whose activities appear to be commercially motivated. Smaller, less sophisticated operators are frequently allowed to plead to misdemeanor-type violations because of the undue cost and time which felony prosecutions would involve.

One the major obstacles over the past decade preventing the effective prosecution of alien smuggling cases has been the lack of resources available at the investigative level. In the early 1970's, the Chula Vista sector of the Border Patrol created an anti-smuggling unit of 13 agents who specialized in smuggling cases. The various agents who were assigned to that office over the years have been among the best investigators that the U. S. Attorney's Office has had the privilege of working with. Their dedication has been most commendable, especially in view of the frequent lack of support personnel and equipment. Similar cooperation has always been forthcoming from agents assigned to the El Centro office.

But 13 investigators, no matter how dedicated or well-equipped, could not hope to cope with the torrent of cases referred to them for investigation. During the spring of 1978, the U. S. Attorney met with Commissioner Leonel Castillo of the Immigration and Naturalization Service to discuss the issue of how to more effectively investigate and prosecute commercial alien smuggling cases. As a result, eleven new anti-smuggling positions were added to the Chula Vista Border Patrol office and three to the El Centro office. (INS also added three positions to the anti-smuggling unit in the San Diego office.) Although these new positions have helped considerably, the volume of smuggling cases still far exceeds the ability of federal law enforcement officers to deal with effectively.

Death and High Speed Chase Cases

The utter disregard by alien smugglers for the health and safety of the illegal aliens they victimize was a recurrent theme throughout the past year, and led to the adoption of a new prosecution policy meant to deter such callousness. The number of incidents involving high speed chases of smugglers trying to avoid apprehension--some of which ended in accidents resulting in the death or injury of the illegal aliens being transported--and the obvious potential for death or injury to the pursuing officers or innocent third persons, mandated the adoption of a "get-tough" approach. Accordingly, any defendant involved in a high speed vehicular chase, regardless of whether an injury or death actually occurs, and any defendant involved in a case resulting in death or injury to an alien or a third party will be required to plead guilty to the entire indictment or go to trial. In other words, there will be no plea bargaining with such defendants.

Material Witness Problem

Aside from the lack of investigative and prosecutive resources, the most serious obstacle to the effective enforcement of our immigration laws is the decision in United States v. Mendez-Rodriguez, 450 F.2d 1 (9th Cir. 1971). The practical effect of this decision is to require that every single illegal alien being smuggled, transported, or harbored by a defendant must be held in federal custody as a "material witness" until the defendant's attorney has had the opportunity to interview them (which usually takes several weeks), and sometimes until the defendant's trial, which might be two or three months after arrest. The U. S. Attorney's Office has in the past year prosecuted cases involving the use of tractor-trailers to transport 150 illegal aliens at a time; in such cases, all 150 aliens had to be held in custody as material witnesses. Such incarceration obviously results in severe hardships for the witnesses, and places severe restrictions on the ability of the prosecution to properly investigate and prosecute criminal violations. The beneficiary of the dilemma caused by Mendez-Rodriguez is the defendant, who knows that delay works to pressure the prosecution to dismiss, reduce, or compromise the charges brought against the defendant in the interests of incarcerated material witnesses (quite often while the defendant himself is free on bond).

One of the first problems the Criminal Division faced in 1978 was the logistical problem of housing the thousands of material witnesses arrested annually. During Fiscal Year 1978, 2,902 aliens were booked into custody as material witnesses. The Metropolitan Correctional Center located in San Diego, which serves primarily as a pretrial detention facility for federal prisoners, has encountered periodic overcrowding during the last several years, exacerbated by the material witness problem. Particular stresses occur when large single loads of from 50 to 100 aliens are apprehended, and when women and small children are included in a group.

In order to rectify the problem, this office turned to U. S. Marshal James R. Laffoon for his assistance. With his excellent cooperation and leadership, an agreement was reached with the Warden at the Metropolitan Correctional

Center, INS officials who operate an Immigration Service detention facility in El Centro, California (120 miles away), and local INS and Border Patrol officials, which allows for the incarceration of some material witnesses at the El Centro facility when overcrowding occurs at the Metropolitan Correctional Center. Various related aspects of the agreement have resulted in an enormous savings in money and manhours. The cooperation of the federal magistrates, district court judges, defense lawyers, and attorneys appointed to represent the material witnesses has reduced the inconvenience caused by the transfer of the witnesses to El Centro for pretrial detention. (During Fiscal Year 1978, the average number of days in custody per material witness was 20.12 days. This was down from 25.97 days in Fiscal Year 1977.)

Because of current Bureau of Prisons policies, the Metropolitan Correctional Center has had great difficulties dealing with the number of women and small children that are arrested as material witnesses. This office again turned to the U. S. Marshal for his assistance in solving this problem. Efforts are currently in progress to develop a program which will allow women and children to be released from custody to live in a "foster" home in the local community pending the resolution of criminal charges against the defendants.

During 1978 the U. S. Attorney met frequently with the Mexican Consul Jesus Rodriguez Navarro in an attempt to further alleviate the problems associated with the incarceration of material witnesses. An open invitation was extended to him to notify this office whenever particular problems were brought to his attention. Moreover, he was invited to bring to our attention any case in which the material witnesses had been in custody for more than 30 days. (Such notification prompts an immediate inquiry by this office regarding the individuals involved, followed by a report on the status of the matter to the Consul.)

In order to alleviate the problems spawned by Mendez-Rodriguez, this office, in conjunction with the other U. S. Attorneys in California and along the border, has undertaken an effort to return this issue to the court of appeals for further review and consideration in light of the ramifications flowing from their decision in 1971. An appropriate test case or cases is now being selected.

Such a test case will necessarily raise critical and competing constitutional and practical issues. Any resolution must balance the often conflicting interests of law enforcement, the defendant, and the material witnesses. The resolution must permit vigorous and effective prosecution of criminal violations, without sacrificing the due process rights of the defendants, and without causing undue hardships for the material witnesses. Prior to the court's decision in the Mendez-Rodriguez case in 1971, the prevailing practice was for the Border Patrol to select a smaller number of aliens in a load to be held as government witnesses. The remainder were immediately returned to their native land, without affording the defendant an opportunity to interview these witnesses to see if any had evidence helpful to the defense. This unilateral government action, reasoned the court of appeals, violated the defendant's Fifth and Sixth Amendment rights to due process and to subpoena witnesses in his own behalf.

Efforts are now under way to provide a procedure that will guarantee that these witnesses will be available to be interviewed and subpoenaed by the defendant, without requiring that the witnesses be kept in custody. A test case will be selected in which the witnesses will be returned to Mexico after initial processing by the Border Patrol following their arrest. With the assistance of the Mexican Consul and the Immigration Service, every attempt will be made to see that these witnesses will be made available for subsequent interview by the defense. If any of the witnesses are found to be helpful to the defense, they will be allowed to return to the United States to testify at the trial. Whether such a procedure is workable, cost-effective, and constitutional remains to be determined.

MEMORANDUM: THOUGHTS REGARDING EVENTS RELATED TO BORDER VIOLENCE, ALIEN SMUGGLING AND THE CONTINUED EXPLOITATION OF MEXICAN NATIONALS

The purpose of this memorandum is to analyze what I believe is an extremely volatile issue--an issue which could easily explode, much to the embarrassment of the country.

I refer to the problems--human, social, and enforcement--associated with our current efforts to effectively patrol the international border with the Republic of Mexico in the Southern District of California.

My thoughts are not directed towards the long-range, "macro" issues which confront our country in terms of the geo-politics of our relationship with Mexico. Neither are they intended as a commentary on the long-range implications of the illegal immigration issue.

To the contrary, my analysis is much more direct and immediate. It is directed towards the "micro" aspects of the problem--most particularly the issue of increasingly serious border violence which has been of compelling concern in this District.

On Monday evening, May 28, 1979, five Mexican nationals, all illegal aliens, were either killed or injured in this jurisdiction on one night. The three separate incidents reflect, individually and collectively, the type of problems confronted daily in this jurisdiction in our attempt to carry out federal responsibilities along the border. On the evening in question, one alien was shot and seriously wounded by a Border Patrolman in the course of the Patrolman's effort (acting alone) to personally apprehend eighteen illegal aliens. This was the sixth such shooting incident in recent months and the fourth since late March.

On the same evening, three aliens were shot and wounded by Mexican border bandits who frequently sneak across the border to prey on the unsuspecting aliens crossing into this country. Rapes, robberies, and assaults by border bandits on Mexican nationals have been a source of sustained and serious concern for some time.

Finally, on the same evening, a fifth alien was killed in a vehicle accident resulting from a high-speed highway chase during the course of a smuggling operation. Deaths in the course of such ventures are relatively commonplace in this area. (I personally prosecuted a case involving two such deaths during the latter part of 1978.) In the three weeks since the evening described, at least two additional such deaths or injuries have occurred.

The point of all this is that a readily ascertainable increase in violence along the border is evident even to occasional observers.

This increase in violence includes rock and bottle throwing and sporadic shooting into this country by residents of Mexico. On the evening of June 7, 1979, for example, two separate such shooting incidents occurred--one involving eight shots, apparently from an automatic weapon, followed by an incident involving three shots--both from Tijuana into the United States. These incidents were followed two days later by a direct shooting assault on a Border Patrolman (two shots) assigned to patrol the north levee of the Tijuana River Channel. Following the second incident, the Border Patrolmen patrolling the area in which the shooting took place initially refused to return to their normal duties on the north levee of the Tijuana River Channel, and they only agreed to do so upon threat of immediate disciplinary action if orders were not followed.

On June 22, 1979, at 1:45 a.m., two additional shots were fired directly at a Border Patrolman from the Mexican side. Fortunately, no one was hit.

Widespread media attention has been given to the Border Patrol's recent issuance of riot gear to agents assigned to the immediate area of the border. Large numbers of Border Patrolmen are buying bullet-proof vests at their own expense.

Tension at the border, on both sides, has never been higher; the morale of the men has never been lower; and the potential explosiveness of the situation has never been clearer. As I explained recently: "You have an undermanned force of men with guns, facing overwhelmingly superior numbers, in dangerous situations night after night, their morale disintegrating, with little support from above, being asked to do a job they know is impossible." (San Diego Tribune, June 7, 1979).

The Department of Justice has been made aware of the potentially explosive nature of this particular problem. I have met with or talked to Commissioner Castillo repeatedly. In May of 1978, I invited the Commissioner and his enforcement staff to a meeting in San Diego, attended by three other United States Attorneys from California, as well as United States Attorney Michael Hawkins of Arizona, in an effort to stimulate coordinated action. Doris Meissner, Deputy Associate Attorney General, also attended the meeting. Both the Deputy and Associate Attorneys General have been to this District; the latter, earlier this year, to look specifically at the whole border problem in preparation for President Carter's meeting with President Lopez Portillo. I spoke extensively about the problem in my swearing-in remarks back in February of 1978 and devoted a whole section of our recent Annual Report to the Attorney General to immigration-related problems.

Numerous representatives of the Congress, as well as from such executive agencies as OMB and GAO, have come to the Southern District in recent months to assess one or another aspect of the problem.

In April of this year, Don Cameron, Sector Chief of the Border Patrol in Chula Vista, began sending a series of "urgent" communications to officials of the INS, pointing out the seriously increasing nature of the violence being experienced at the border and requesting additional manpower, including overtime authorization, to deal with the deteriorating situation. These requests were denied.

In the meantime, the situation continued to deteriorate. Three shootings, one involving the death of one alien and the wounding of a second (the two aliens were handcuffed to each other), produced critical allegations, both in the Mexican press and the minority press in this area. The Border Patrol was routinely labeled as "fascist murderers" in some unfriendly press reports. Prudent observers feared the situation was ripe for explosion, exploitation, or both. Indeed, some of the violence (the rock and bottle throwing and the shooting) appears to have been staged as a diversionary effort by smugglers to draw the Border Patrol to one area while large groups of aliens crossed in another.

Faced with a demonstrable increase in general violence and the specific problems (clustered in time) of: (a) shooting of aliens by Border Patrolmen during the course of apprehensions; (b) serious and recurrent incidents of rock and bottle throwing at Border Patrolmen by Mexican nationals; (c) sporadic shootings from Mexico into the United States; (d) serious and sustained border banditry; (e) the potential explosiveness of the situation on both sides of the border; and (f) the lack of response from the Immigration and Naturalization Service in Washington, Don Cameron (Sector Chief, Chula Vista Border Patrol) and I decided to attempt to deal with the worst aspects of the situation before it got completely out of hand. A summary of the actions taken, the reasons for them, and the prospects for their success, follows.

First, a bit more background.

While violence along the border is nothing new, the nature and character of the current violence appears to be both increasing and changing.

In part, this results from the tremendous increase in the number of apprehensions made annually in this area. As an example, five years ago, the Border Patrol made approximately 90,000 apprehensions in this area. This year alone, the number will probably be in excess of 400,000. Of course, that is a 500% increase during a five-year period. It is not unusual for the Border Patrol to make 5,000 apprehensions in the course of a given weekend.

While there are about 265 Border Patrol field agents in this immediate area, only about forty are on the line at any given time (given three shifts, five-day weeks, sick leave, vacations, training sessions, etc.). By "on the line" I mean the sixteen miles of southern border included in the Chula Vista Sector. Furthermore, those on the line are increasingly young and inexperienced. The average tenure of the agents in this District is nineteen months. The Border Patrol is stretched so thin that until very recently (the last three weeks), they have had individual patrolmen, acting alone, attempting to apprehend as many as 25 to 100 illegal aliens. I personally investigated each of the last three shootings and concluded that in two of the last three such incidents the shooting would not have been justified, and probably would not have occurred if the agent had not been acting alone but had another agent present.

No police department in the world that I am aware of would permit such procedures. For example, if in only one percent of the cases (400,000 aliens), a violent confrontation ensued, this would mean 4,000 such incidents annually.

If a violent confrontation ensued in about 1/10 of one percent of the cases, it would mean 400 such incidents. Given the fact that in the overwhelming majority of cases the arrested aliens are, in short order, voluntarily released at the border (to return to Mexico), it is incumbent upon us to do everything in our power to eliminate situations where deadly force is employed.

In addition to the staggering numbers involved--and the indisputable reality that in some finite percentage of the cases there is likely to be a problem--there are other reasons why violence is on the increase.

The nature of the alien coming across has changed. We are no longer dealing exclusively with migrants seeking work in the fields.

Border banditry--the robbery and assault of illegal aliens--is a profitable business--at least more profitable than many other ways of making a living in Tijuana's burgeoning population. Assaults of other types, including rape and extortion, are all too common.

The shrillness of the press reports (especially in Mexico) following several of the recent apprehension-related shootings may, in effect, make violence a self-fulfilling prophecy. A small percentage of the aliens, expecting violence by the Border Patrol, initiate violence themselves.

To a certain extent, some anti-Americanism along the border is probably involved.

The skyrocketing population of Tijuana, conservatively estimated at ten percent per year, figures into the equation somehow.

So does the increasing frustration, as well as the inexperience, of so many of the Border Patrolmen. An armed, inexperienced force operating under dangerous conditions, believing that "nobody cares", is a potential problem, to put it mildly.

The net effect of these and other factors has been to produce a "powder keg" situation.

As a result of these perceptions, my associates and I took the following steps in an endeavor to provide leadership for the situation:

(1) We met with the editorial boards of our two largest newspapers to discuss the increasing seriousness of the problem and to outline our plan for attempting to deal with the situation. Rather widespread publicity followed these meetings, better informing the community of the serious implications of the border problem.

(2) On Thursday, June 7, 1979, a meeting was arranged with Governor Roberto de la Madrid of Baja, Mexico, to enlist his Government's help in curbing the violence on the Mexican side of the border and in assisting us in the investigation and prosecution of major commercial smuggling rings. An important four-point agreement was reached with the Governor, in which he agreed specifically to:

(a) Act decisively to stop border banditry;

(b) Cooperate with us in installing a "hot line" between the Border Patrol Sector headquarters and Mexican officials to respond to actual or potential incidents of violence;

(c) Take appropriate steps to stop rock and bottle throwing, including regular police patrol on the Mexican side of the border, particularly at peak periods (10:00 p.m. to 6:00 a.m.);

(d) Seek assistance in Mexico City for working with us to identify and prosecute major Mexican alien smugglers.

(3) The press coverage of the above general issues and especially the agreements reached with Governor de la Madrid, was extensive and preceded, by just a few days, a planned visit by the Commissioner of INS. During Commissioner Castillo's visit, every possible effort was made to increase his awareness of the explosive nature of the problem. Arrangements were made for him to meet with Border Patrol supervisory staff, Border Patrol wives (who expressed fear for the lives and safety of their husbands), Border Patrolmen in the field, and news media representatives. Specific and articulable requests for more men and equipment were made--and the Commissioner was informed of the local Sector Chief's decision to accept my recommendation to institute two-man patrols at night in the most dangerous areas in order to increase the safety of both the Border Patrolmen and the aliens apprehended. (The latter, of course, leaves a large area of the border unpatrolled unless additional manpower is obtained from elsewhere.)

(4) In the course of the above steps, including with the news media, the nature of the problem was outlined, frankly and accurately. This included justified criticism of our efforts to date (especially of INS), recommendations for change, and a description of the problems faced by INS. Recommendations regarding improved safety procedures were concurred in by Mr. Cameron.

(5) On Monday, June 25, 1979, Don Cameron and I met for a second time with Governor Roberto de la Madrid and a full panoply of Mexican municipal, state, and federal law enforcement officers in Tijuana.

The Governor indicated that he was pleased with developments since our first meeting on June 7.

He indicated he had gone to Mexico City, as promised, in order to coordinate the efforts we were planning to implement along the border with federal officials in the capitol.

De la Madrid indicated he had met with President Lopez Portillo and that the President had personally authorized the full range of cooperation and coordination that de la Madrid and I had previously agreed to on June 7.

Governor de la Madrid indicated that he had also personally met with and received similar assurances from the Attorney General, the Secretary of the Interior, and the President of the Mexican Supreme Court.

The Governor also indicated that Lopez Portillo had authorized him to announce publicly a plan of coordinated action to crack down on smugglers and others who exploit Mexican nationals.

De la Madrid was careful to point out that action on the Mexican side would, of course, proceed according to their law, with the objective being the protection of Mexican nationals. He indicated his interest was the same as he understood ours to be--to eliminate the exploiters, the smugglers, robbers, and rapists who prey on Mexican nationals.

He indicated that he would implement a combined state effort, made up of Mexican municipal police, state judicial police, and state traffic police--all of whom will act in an auxiliary capacity to the Mexican federal district attorney and Mexican immigration.

De la Madrid expressed a desire to "keep in constant contact", to "help each other as much as possible", and agreed to biweekly meetings in the immediate future.

The Governor stressed that the action taken by Mexican officials over the previous weekend, to arrest 136 smuggling suspects in Tijuana, was a "direct response" of President Lopez Portillo to the previous arrangements reached with de la Madrid and was intended to "show the President's high concern" with the problem.

He indicated that all of the 136 persons arrested will be prosecuted, probably in Mexico City.

The Governor asked that we continue to supply the sort of intelligence information previously given to Mexican officials regarding smuggling activity, and we agreed.

It was suggested to the Governor that if we could demonstrate the success of this sort of a coordinated effort between federal officials in the Southern District of California, and in Mexico, our efforts might well be transferable elsewhere along the border on the theory that "leadership is contagious". He agreed, and in fact picked up that theme in his press conference.

In short order, either at or near the time of our actual meeting, or within a few days, three additional decisive actions were taken by Mexican officials in response to border problems.

(1) A major "forged document" ring was successfully raided and shut down--a ring which had been selling fraudulent "green card" work permits for $400 to $500 each to Mexican nationals desiring to enter the United States illegally to work.

(2) Mexican officials, "following orders from President Lopez Portillo", ordered a dozen two-man anti-smuggling patrols composed of federal, state, and municipal police and Mexican immigration authorities, to begin operating along the Tijuana-San Ysidro border beginning next week. Seven mobile units will operate between Tijuana's beach area and the airport, on the east side of the City. Five other teams will stand ready to respond to outbreaks of violence along the border or calls for assistance by the U. S. Border Patrol or other Mexican units.

(3) De la Madrid announced the extension of our joint efforts to the Mexicali-Calexico area.

Significant progress has been achieved in a short period of time in this difficult area. To chronicle these events the following are attached to this memo:

(1) San Diego Union and Tribune coverage of initial statements of the problem (June 7, 1979) - Exhibit I.

(2) San Diego Union and Tribune treatment of agreements reached with Governor de la Madrid of Baja, Mexico (June 8 and 9, 1979) - Exhibit II.

(3) Los Angeles Times coverage of the de la Madrid meeting and agreement (June 8 and 9, 1979) - Exhibit III.

(4) San Diego Union and Tribune editorials in support of leadership effort and steps taken (June 8, 11, and 12, 1979) - Exhibit IV.

(5) Local press coverage of Castillo's visit - Exhibit V.

(6) Release announcing June 7, 1979 agreements with Governor de la Madrid - Exhibit VI.

(7) Contemporaneous articles in San Diego Union and Tribune, and Los Angeles Times dealing with various aspects of the border/alien issue - Exhibit VII.

(8) San Diego Union editorial in response to temporary assignment of additional 30 Border Patrol agents to this area (June 23, 1979); San Diego Union editorial in response to second meeting with Governor de la Madrid (June 28, 1979); guest editorial "Light at Both Ends of Border Tunnel", by Michael Walsh, San Diego Union (July 1, 1979) - Exhibit VIII.

(9) San Diego Union, Los Angeles Times coverage of second meeting with Governor de la Madrid announcing anti-smuggling campaign, and massive arrests of Mexican smugglers (June 26, 1979) - Exhibit IX.

(10) Report of major crackdown (arrest of 136 suspects) of Mexican alien smugglers by Mexican officials (San Diego Union, June 25, 1979); report of recent announcement of twelve two-man patrols composed of Mexican federal, state and municipal police to patrol Mexican side of border to stop violence (San Diego Tribune, June 28, 1979) - Exhibit X.

(11) Report of major crackdown of Mexican document forgers by Mexicans (San Diego Union, June 27, 1979); report of Governor de la Madrid's announcement that the Mexican border crackdown will be extended to the Mexicali-Calexico area, San Diego Union (June 30, 1979) - Exhibit XI.

Further, in an endeavor to assist the Border Patrol in reducing unnecessary violence for which it might be responsible, senior members of my staff and I met with each shift of the Border Patrol before they went on duty over a three-day period and explained to them the very limited circumstances in which deadly force may be employed and sought their cooperation in taking all reasonable steps to reduce unwarranted violence. Coverage of this matter by the media, along with my statement on the matter, is attached as Exhibit XII.

Media coverage of Governor de la Madrid's follow-up support for our agreements, announced in Mexico at a speech he gave to the State Attorneys General of Mexico, is also attached as Exhibit XIII. It, and the various other decisive steps he has taken reveal, I believe, his genuine commitment to work with us (which commitment, of course, is now publicly supported by President Lopez Portillo).

The response from INS in Washington to these efforts has been sporadic. On June 21, 1979, Don Cameron was informed by teletype that thirty additional men, temporarily detailed to Chula Vista from other areas for a 30-day period, had been authorized. Overtime, of an unspecified nature for his regular force--with unspecified funding--appears to have been authorized to an unspecified extent. At this point, Mr. Cameron informs me that this has been the only response of a specific nature from INS in Washington. The Western Region has authorized $14,000.00 additional funding for equipment repair.

The follow-up on the Mexican side of the border has been very good. In the last two shooting incidents (from Mexico into the United States), Mexican police have been on the scene in three and ten minutes, respectively. In the past, the response time (if any response was forthcoming), ranged from 35 minutes to 1-1/2 hours. The "hot line" has been installed and is now operative. A second meeting with de la Madrid revealed the full commitment of the President of Mexico to a major crackdown on Mexican alien smugglers (Exhibit X) supported by the almost contemporaneous arrest of 136 such smugglers in Mexico (Exhibit X) and a similar crackdown on Mexican document forgers (Exhibit XI). Twelve two-man patrols, specifically designed to respond to violence initiated from the Mexican side, have been implemented in Mexico (Exhibit X). Cooperation has been extended from the Tijuana area to the Mexicali-Calexico area (Exhibit XI).

The cooperation in the local Sector (Chula Vista) has also been excellent. The leadership in the Sector has been indefatigable in its efforts to respond to helpful suggestions regarding the adoption of safer procedures and efforts of all sorts to improve the security of both the agents and the aliens. The adoption of safer procedures, however, (especially, two-man patrols) has significantly cut down apprehensions, from a nightly average of approximately 800 to a nightly average of less than 400. The reason for this is obvious. We have committed ourselves to doing the job safely with the resultant effect of leaving various areas of the border unpatrolled. As of June 21-22, 1979, apprehensions dropped to below 200. (See press reports, San Diego Tribune, June 21, 1979 - Exhibit XIV). Patrols have been redeployed recently, however, and apprehensions have now increased. Local sector leadership has made the decision only to employ two-man patrols at night in the most troublesome areas.

I have designated a senior member of my staff, Peter Nunez (formerly Chief of the Criminal Division), and a younger member of my staff, Hector Salitrero (a native of Chihuahua, Mexico), to work virtually indefinitely on this problem. Mr. Nunez spends most of each day in Sector headquarters, working on policies and procedures for the younger Border Patrolmen, both in the Sector and out in Imperial Valley.

The most important question which remains in this whole unpleasant business is the follow-up, or lack of it, from the American side. Put bluntly, manpower is an important issue.

The Chula Vista Sector makes about forty percent of the apprehensions of all illegal aliens in this country each year. Yet they have only twenty-plus percent of the national Border Patrol manpower to accomplish this task.

Many believe that the situation in the Southern District cannot be considered safe, or manageable, unless substantial additional manpower is provided to the Sector. Additional manpower is needed in order to do the work of the Border Patrol safely. In the absence of that manpower, the Border Patrol is now committed to leaving various areas of the border unpatrolled so as to do its work safely in those areas where patrol is employed. The ultimate consequence of this particular course of action, in terms of substantially increased illegal immigration, is for others to contemplate.

In reflecting on the substantial progress achieved in the last three weeks, it seems obvious that we should not continue to allow ourselves to be blinded to the need for short-term action by the apparent elusiveness of long-term solutions to the illegal alien problem. Our inability to articulate long-term solutions to the border problem is not distinctively different from our inability to articulate long-term solutions to the problem of urban decay, domestic crime, or a host of other equally sticky national and international issues. As perplexing and complex as are the long-term problems in any of these areas, we nevertheless are attempting to deal with the most poignant of the short-term problems in a rational and humane fashion. (We have no solution in sight to the energy problem, but we have the good sense to adopt a 55 mph speed limit and an odd-even plan of daily gasoline distribution.) We must make the same sort of practical adjustments in this area.

Clearly the problem requires significantly more national action than it has previously received.

The Chula Vista Sector Chief, Don Cameron, recently stated he needs 100 additional experienced men as "a temporary stopgap measure" (nighttime duty only) in order to do the Border Patrol's job safely. Cameron feels that in order to do the whole job safely and effectively, the number of men in his force would need to be doubled. For FY '79 Congress authorized and appropriated funds for 168 new agent positions for the Chula Vista Sector alone. This was from among the 273 nationally authorized positions. The Office of Management and Budget vetoed this expenditure. To say the least, this is an awkward posture to be in, should a major blow-up occur.

The number one problem is in the Chula Vista Sector, not elsewhere. This is where "the action" is, and this is where the attention should be focused. If new positions are not available, appropriate administrative action should be taken to transfer agents from elsewhere to the Chula Vista Sector. The local Sector Chief has made it clear that he cannot do the job safely with current resources. Indeed, Cameron has publicly stated: "It's like I am commanding a lost battalion, asking for more troops, and my radio operator is saying he can't get through". (San Diego Tribune, June 7, 1979).

In addition, we must address the question of violence at the border head-on (from a national perspective). Are we using existing enforcement resources as intelligently as possible? Are we pursuing any articulable priorities, let alone the right ones? Are our enforcement procedures as safe as reasonably possible? Should we orient our efforts more toward the border and less internally (in much the same way DEA moved to a posture of dealing with the sources of narcotics, rather than the recipients)?

Consideration must also be given to the implications of integrity breaches at the Port of Entry arising from bribes paid by smugglers to allow vehicles carrying illegal entrants to pass through without inspection. On June 19, 1979, two Customs agents were convicted of bribery and smuggling violations, one by jury and a second by plea. A third Customs agent was convicted here a year ago of the same offense. A fourth Customs agent (in Calexico) has just been arrested on breach of integrity charges. There is the obvious possibility that alien smugglers, once purchasing access for vehicles supposedly carrying only benign cargo (illegal entrants), may begin employing the same vehicles to carry narcotics in large quantities as well.

We also should do more to deal effectively with the investigation and prosecution of large commercial alien smuggling rings in this country. As detailed in our 1978 Annual Report, although some progress has been made in this area in the past year, our investigative and prosecutive efforts in this area still fall short of the mark. A hard-hitting, well-coordinated effort--especially now that we have full cooperation on the Mexican side--could pay large dividends in terms of stemming at least a portion of the flow of illegals. (Although the need for further efforts on this side could be diminished somewhat by successes on the Mexican side of the line.)

These and other thoughts (specific recommendations) have been communicated in detail to Washington.

In reflecting back on the last month, it seems indisputable that considerable progress has been achieved in this difficult area.

--The media has helped to articulate the problem more clearly.

--The response of the Mexican government has been gratifying.

--Tempers along the border itself have cooled somewhat.

--Violence has been temporarily reduced.

--Some progress in getting the attention of INS, Washington has been made.

The situation, however, remains volatile. The key, at least in the short-to-intermediate term, is to continue to work on a host of admittedly short-term responses in hopes of keeping the situation from exploding while the basic elements of a long-term strategy are given time to emerge.

MICHAEL H. WALSH
United States Attorney
Southern District of California

July 2, 1979

PRESS RELEASE
June 8, 1979

For further information, call:
Michael H. Walsh (714) 293-5690

WALSH ANNOUNCES AGREEMENT WITH MEXICO TO CURB ESCALATING BORDER VIOLENCE

U. S. Attorney Michael H. Walsh today announced that a "fundamentally important agreement" to curb escalating border violence was reached after an hour-and-a-half meeting with Baja, California Governor Roberto de la Madrid and representatives of the municipal, state and federal judicial police in Tijuana late Thursday, June 7. Also participating in the meeting were Donald M. Cameron, Chief of the Chula Vista Border Patrol and William Tienken, American Consul in Tijuana.

The agreement, which Walsh said he was "genuinely optimistic about" covers four areas:

-- De la Madrid agreed to a coordinated plan of action to stop border banditry, starting with what the Governor called "a plan of preventive action" on the Mexican side of the border. Pursuant to this agreement, Mexican officials will attempt to identify bandit groups resident in Mexico who enter the United States to prey on illegal aliens coming into this country, and take appropriate action to stop such activity.

-- De la Madrid agreed to take appropriate action, in cooperation with Mexican municipal and state police, to eliminate rock and bottle throwing, and sporadic border shooting which has risen dramatically in recent months. The Governor agreed to a regular Mexican police patrol of the border, including "hot spots", especially during the key hours, between 10:00 p.m. and 6:00 a.m. daily.

-- De la Madrid agreed to establish a "hot line" between the U. S. Border Patrol and Mexican authorities, and promised immediate response by Mexican officials when called upon to assist in violent or potentially violent situations. The line, which will be jointly paid for by the two countries, will also allow Mexican authorities to seek immediate response from U. S. officials when that action is required.

-- De la Madrid agreed to launch a coordinated campaign against organized alien smugglers operating in Mexico and indicated his intent to form a special prosecution group within the State Judicial Police to investigate the falsification of border crossing documents, an offense against the laws of the State of Baja.

The Governor also agreed to personally attempt to secure the full cooperation of Mexican Federal authorities in what would be the first-ever major coordinated effort between Mexico and the United States to jointly investigate and prosecute alien smugglers. De la Madrid emphasized that no final agreements could be reached in this important area without the full participation and cooperation of the Attorney General of Mexico, Oscar Flores Sanchez, and the Mexican Secretary of the Interior, Enrique Olivares Santana. The Governor pledged to meet as soon as possible with these officials, to seek their full cooperation in a joint anti-smuggling effort, and to schedule a follow-up meeting with Walsh as soon as possible to work out the final details.

Walsh was generous in his praise of Governor de la Madrid. "The Governor fully realizes that escalating border violence is unacceptable to the governments and the people of both of our countries. He has an impressive grasp of the problem. His response was direct, immediate, and forceful. He has agreed to act immediately upon those aspects of the problem over which he has direct control and to personally seek assistance in Mexico City for those aspects of the joint effort which must be dealt with there. We could not have asked for more."

Walsh also indicated that he believed the Governor was "a man of action, a man of his word" and that the agreements reached could and would be implemented. Walsh stated further that "I have the Governor's full authority to make this announcement today. He simply asked that I make it clear that those aspects of the problem requiring action in Mexico City cannot be finalized until our next meeting, which will follow the Governor's consultations with the Attorney General and the Interior Secretary. The fundamental police actions intended to curb border violence, however, are within the authority of the Governor and will be implemented forthwith."

"I informed the Governor that I was going to invite public scrutiny of the implementation of our agreement", said Walsh. "He knows we mean business, and I believe he does, too", Walsh added.

Walsh also indicated he felt the United States had an obligation "to meet de la Madrid half way".

"The problem of curbing border violence is also our business", Walsh said. "If we're going to continue to patrol the border, and make tens of thousands of arrests each month, then we've got to organize our efforts so we can accomplish our task without anyone getting hurt unnecessarily. We can't do this with an undermanned, overworked Border Patrol. We can't do it with a single agent attempting to take 50 to 100 aliens into custody all by himself. That situation is simply too dangerous. In the San Diego area, we make almost half the arrests of all aliens taken into custody each year throughout the United States, but we have only about one-fifth of the agents. That's just not a sensible situation. The Border Patrol here has got to have more manpower to do its job safely."

Pointing at the rash of shootings by Border Patrolmen in the course of alien apprehensions in recent weeks, Walsh expressed the opinion that in two of the latest three such cases, no use of force would have been necessary if the agent involved had not been alone in the field. "I don't know any law enforcement agency in the world that would even think of asking a single officer in the field to attempt to apprehend fifty or more individuals all by himself", Walsh said. "It's just too fraught with danger."

Walsh revealed plans to publicly support Sector Chief Donald Cameron's continued requests for more manpower and indicated he will personally plead with Immigration Commissioner Leonel Castillo, at the time of his visit to San Diego this weekend, to increase the number of Patrol Officers stationed here by at least 100. "If we can't do this work safely, then we shouldn't do it", Walsh said. "We owe at least that much to the aliens involved, as well as to the people of this community." If no new assignments are forthcoming, Walsh indicated he may request the Border Patrol to adopt two-man patrols, "for safety's sake", and to ignore the resultant gaps in border enforcement. "I want the violence stopped", Walsh said. "I want the border to be patrolled safely. If the decision is to not put enough people down there to do the full job right, then it will be my recommendation to only do half the job, but to do it safely."

Walsh also announced that three weeks ago, he assigned Assistant U. S. Attorney Peter Nunez, former Chief of the Criminal Division of the San Diego Office, to work full time with the Border Patrol to reduce violence, increase prosecutorial efficiency, and assist in the evaluation of current efforts and the planning of future endeavors. Nunez will continue in this assignment indefinitely, Walsh said.

Attending the Thursday meeting, in addition to Walsh and Governor de la Madrid, were:

Donald M. Cameron, Chief, Chula Vista Border Patrol Sector

Albert Franco, Deputy Chief, Chula Vista Border Patrol Sector

Roman Cardenas, Chief of Mexican Immigration (Tijuana)

Reyes Hernandez, Federal District Attorney's Office

Benito Rico Ruiz, Deputy Attorney General, Baja, Calif.

Gustavo Guevara Gamboa, Sub-commandante, Municipal Police, Tijuana

Marcelo Aguilera, Chief, State Judicial Police, Tijuana

Juan Garcia-Colin, Sub-commandante, Tijuana Police Dept.

William Tienken, American Consul, Tijuana

Ross Benson, American Consular Officer, Tijuana

APPENDIX 2

Subsequent to the oversight hearings, the Subcommittee submitted additional questions to the Immigration and Naturalization Service seeking further detailed information which was not explored during the hearings because of time constraints.

The section that follows contains the questions posed by the Subcommittee and the replies furnished by the Immigration and Naturalization Service.

It should be mentioned that some of the data supplied in the replies will serve as basic background information for use in future oversight hearings.

Inspections

1a. Your budget submission to the Department of Justice requested 106 additional inspection positions. What justification was given for these additional positions?

The INS FY 1981 Budget Planning Submission to the Department of Justice, made in April 1979, cited as justification the need to relieve anticipated delays at many major U.S. airports brought about by significant air travel increases. A growth in excess of 20 percent had been experienced in FY 1978 and, at the time of the submission, the Service anticipated annual growth at 15 percent for Fiscal Years 1979, 1980 and 1981. The request was also justified by anticipated use of the positions for staffing of additional preclearance sites and for additional duties in connection with ADIT card issuance.

Inspections

1b. Where was this additional personnel to be stationed?

The Service developed a tentative distribution for the proposed 106 positions as follows:

Location	Positions	Location	Positions
Albuquerque, NM	1	Houston, TX	8
Anchorage, AK	1	Kansas City, MO	1
Atlanta, GA	2	Los Angeles, CA	15
Blaine, WA	2	Miami, FL	15
Brownsville, TX	2	Montreal, Quebec	2
Calexico, CA	2	New Orleans, LA	4
Chicago, IL	2	New York, NY	15
Dallas, TX	7	Nogales, AZ	1
Detroit, MI	6	San Francisco, CA	2
Douglas, AZ	1	San Ysidro, CA	3
El Paso, TX	4	Seattle, WA	1
Hidalgo, TX	1	Toronto, Ontario	3
Honolulu, HI	4	Washington, DC	1
		Total	106

Inspections

1c. What adjustments will have to be made in view of being given only 15 additional positions instead of 106?

The 15 additional positions will all be assigned to the newly completed arrival facility at the Miami Airport. It is believed that their employment at this new facility will allow these positions to be used with maximum effectiveness. The need for prompt and effective inspectional service in view of the projected increase in air travelers at other locations will be met by emphasis on procedural innovations. Additionally, the Service is authorized a funding increase of $2.2 million for inspections which equates to 86 work years. These funds will be employed to reduce the vacancy rate for existing positions at those airports having high traffic volume.

Inspections

1d. What is the situation at Miami International Airport and what impact will the 15 additional positions have on the total problem?

The previous inspection facility which was extremely overcrowded during peak periods has been replaced by a new arrival facility. With the staffing of the additional 15 positions for FY 1981, the promptness and effectiveness of inspections at that site should be greatly improved.

Inspections

1e. What other airports are experiencing major difficulties due to the lack of sufficient inspectors?

Other major airports where we have workload problems include Los Angeles, San Francisco, Chicago, Dallas-Ft. Worth, Houston, Atlanta, Honolulu, New York (JFKIA), and Toronto and Montreal, Canada. A number of smaller air facilities are experiencing problems of like or greater intensity because of the relatively limited flexibility in work scheduling and other adjustment procedures due to the small size of their staffs. Examples in this category include Tampa and Denver.

Inspections

1f. What measures are contemplated to overcome these difficulties?

Several general approaches are available to the Service in attacking the difficulties which are now experienced at airports in providing prompt and effective inspections such as reassignment of staff resources from non-essential functions to more productive duties and more balanced matching of staff and actual workload. Among the specific alternatives being considered for implementation or increased use are the following: redesign and reconstruction of inspection facilities, development of alternative baggage handling procedures, extension of one-stop processing and the opening of additional preclearance points, extension of citizen by-pass, and reduction of staffing delays under Civil Service Reform Act procedures, greater use of part-time and temporary employees to meet workload peaks, improved scheduling of temporary inspection duties for employees not in line inspection positions, staff relocation from duty stations where workload per position is significantly below the norm, and expanded and systematic use of arrival profiles to schedule assignments based on projections of the actual need for inspection rather than simply the total number of passengers.

A number of the above alternatives are dependent on cooperation and coordination with entities outside the Service, including air carriers, airport management and other Federal agencies. INS intends to place major emphasis on the further development of these necessary relationships.

Inspections

1g. What facility alterations are contemplated in FY 1980/81 at ports of entry at both the Canadian and Mexican borders, as well as major airports?

In FY 1980 the following facility alterations have occurred, are in process, or are scheduled:

Los Angeles, CA - a temporary "bubble" structure has been constructed for use until a new permenent airport facility is constructed.

San Francisco, CA - the present airport facility is being renovated.

Atlanta, GA - airport facilities have been remodeled to consolidate several small satellite locations into one inspection area.

Miami, FL - a new airport facility consisting of between 30 and 38 booths on the two-stop module concept has been completed.

Ft. Kent, ME - the land border port will be rebuilt.

In FY 1981 the following alterations are scheduled:

San Francisco, CA - a new airport facility with five one-stop modules is to be constructed.

Detroit, MI - the Ambassador Bridge facility is to be remodeled.

Albuquerque, NM - a completely new airport facility consisting of a single one-stop module is to be constructed.

Dallas-Ft. Worth, TX - an airport facility consisting of about 20 modules is to be constructed.

Hidalgo, TX - the land port of entry is to be replaced.

Houston, TX - the airport facility is to be enlarged.

Laredo, TX - a land port of entry for the new bridge is to be constructed.

Progresso, TX - a temporary land port of entry is to be built for use until a permanent facility can be constructed.

Inspections

1h. What additional manpower is needed to staff these new facilities?

The new or altered facilities discussed in response to Question 1g could be most effectively utilized with the following additional staffing now that the changed space configurations will permit the efforts of additional inspectors to be brought to bear on passenger traffic.

Location	Positions
Albuquerque, NM	1
Atlanta, GA	2
Dallas-Ft. Worth, TX	7
Detroit, MI	6
Houston, TX	8
Los Angeles, CA	15
San Francisco, CA	5

We will also be considering methods of improving staff scheduling that will allow us to more effectively use existing staff.

Inspections

1i. What impact will the cut from 108 to 18 have on overtime costs? On remoting of adjudication petitions?

We believe that 91 additional positions for FY 1981 would have had a limiting effect on overtime by inspectors outside of Sundays and holidays; however, it is not necessarily the case that the absence of these positions will result in a straight line increase. The development and vigorous implementation of alternative work methods and scheduling will be used to cut into overtime growth.

These positions, had they been made available, could have accounted for the completion of approximately 100,000 remoted adjudications under the present balance between work on direct inspectional duties and non-inspection time spent on adjudications. Of course, successful initiatives in better work scheduling for inspectors will reduce the time available for remoted adjudications.

Inspections

2a. Where are one-stop inspections used? What overall benefit has been observed by the use of this type of inspection? What plans are being made to extend the use of the system?

One-stop inspection is now in use at Philadelphia, Pennsylvania and at Edmonton, Alberta, Canada and is scheduled for introduction at Los Angeles, California in June 1980.

The systems in use at Philadelphia and Edmonton, because of individual attributes, do not provide an adequate basis for estimates of the overall benefits of one-stop inspections. Philadelphia has only one inspection module operating on a one-stop basis and excessive amounts of productive inspection time are lost due to delays in baggage delivery by the airlines. Edmonton, as a pre-clearance station, services arriving passengers and is free from the pressures of passengers leaving airplanes in a compact group.

With the opening of the Los Angeles one-stop system, a full evaluation of effectiveness, passenger facilitation and cost will be made. If its anticipated benefits are verified, the system will be extended to other locations. The following airports are now tentatively scheduled for one-stop facilities: Atlanta, Houston and San Francisco. The Braniff terminal at Dallas-Ft. Worth, due for completion in 1983, may also incorporate a major facility for one-stop inspection. Consideration is now being given to such a facility in the Virgin Islands; and, depending on the results of the experience at Los Angeles, additional locations will be examined.

Inspections

2b. Where are "citizen bypass" systems used? What benefits have been realized by using this system? What plans are envisaged to extend the use of this system?

The U.S. citizen bypass is available for use at the following airports:

- Dulles
- JFK (5 terminals)
- Miami (National)
- Los Angeles
- Seattle
- Honolulu
- Boston
- Houston
- San Francisco
- Dallas (2 terminals)
- Chicago
- Anchorage
- San Juan (Eastern)
- San Antonio
- Detroit
- St. Paul
- Bangor

Citizen bypass is not continuously in operation, but is used only at selected times when a high traffic level makes its use most effective. The system notably facilitates the entry of passengers and has been very favorably commented on by U.S. citizen passengers. Clearly, it permits the more effective focus of inspectional staff resources on alien passengers.

With the extension of the system to the New Orleans airport, all major airports, in terms of passenger traffic requiring inspectional services, are now covered. The Service will be examining the feasibility of using the bypass at times not currently in service.

Inspections

2c. At what foreign airports is the preclearance system in effect? How many inspectors are stationed at each location? What impact has this sytem had on reduction of congestion and waiting time? What are the costs for maintaining inspectors abroad in relation to inspectors in the United States? What costs are picked up by the airlines at preclearance locations? What efforts are being made to extend the use of preclearance? What obstacles are there to extending the use of this system?

INS preclearance stations at foreign airports and numbers of inspectors at each station are given in the following table:

Canada	Inspectors
Vancouver, B.C.	9
Victoria, B.C.	2
Calgary, Alberta	5
Edmonton, Alberta	4
Winnipeg, Manitoba	2
Toronto, Ontario	26
Montreal, Quebec	15

Bahamas	Inspectors
Nassau	6
Freeport	6
Bermuda	
Hamilton	4

The preclearance system has produced major localized benefits for both the air carriers and the traveling public in the elimination of delays. Because the system operates at departure when travelers are generally introduced into the inspection process over a considerable period of time, as opposed to arrival when all passengers enter inspection at essentially the same time, congestion and delay are reduced to a minimum. Any individual denied entry is not subjected to the inconvenience of travel and return. After preclearance, arrival is treated like a domestic flight, which frees air carriers from the frequent delays imposed on their schedules associated with processing at the inspection facility of major airports and reduces the traffic pressure on those facilities which are frequently so overextended in their physical capacity that additional inspectional staff could not be effectively utilized. Congestion has been reduced at Miami, New York, Chicago and Los Angeles. Also, the Canadian preclearance sites in the western provinces free the Service from the need for permanent inspector staffing at a large number of small airports in the Pacific Northwest and in the Northern Plains States.

Inspections - 2c

Costs of maintenance of inspectors at preclearance facilities are considerably higher than at domestic stations and include cost of living allowance, education allowance, travel and relocation costs at the beginning and anding of the tour (excludes real estate sale and purchase costs); also, inspectors at preclearance stations are usually one grade higher than their domestic counterparts. We estimate that the overall cost for an inspector stationed abroad, including direct labor and other "non-maintenance" objects, is roughly twice that of one stationed in the United States. In spite of the higher cost per position, the Western Canada preclearance sites are highly cost effective because of the much greater number of inspections which would be required for coverage at receiving airports. The Eastern Canada, Bahamas and Bermuda sites are also considered cost effective because the limited facilities at receiving airports restrict efficient deployment of inspections staff.

Carrier reimbursement to INS at preclearance stations is made on the same grounds as at domestic facilities: for delayed arrivals and for Sunday and holiday arrivals.

The possible extension of preclearance to two European airports is under examination; for one it is at the most initial phase and for the other it is the subject of a current study by an air transportation industry group.

The establishment of preclearance facilities in a foreign nation by INS and the U.S. Customs Service is an undertaking which involves the enforcement of United States laws within an alien sovereignity and requires complex and demanding negotiations for agreements of reciprocity. Clearly the needs and attitudes of the host nation are a major consideration. The additional costs of stationing personnel abroad are also a significant consideration. Certain unique circumstances must be present in traffic patterns and in the facilities of the receiving domestic airports for the system to make a positive cost benefit showing.

The system must not be allowed to devolve into a subsidy to air carriers and to domestic airport management which will be a counter incentive to the necessary improvement in domestic inspection facilities. It is also important to note that the extension of preclearance must be considered in light of the national effort to reduce Government employment abroad.

Inspections

3. *Reprogramming action prior to December 31, 1979 deleted five positions and added 100 workyears to Inspection Operations. Explain this action and effect on Inspection activities.*

The Service's initiation of an automated financial accounting system (November 1978) provided information at the close of FY 1979 for a more detailed account of resources and projection of cost. The reduction in the Inspection Program's reported positions by five and addition of 100 workyears were corrections to the former management information systems data base and did not involve any movement or reprogramming of funds or positions between programs.

Border Patrol

1. *What is the current status of the $14,500,000 specifically earmarked by appropriation legislation for FY 1980 for the employment of an additional 495 Border Patrol personnel?*

The funds have been, or are scheduled to be, utilized as follows:

Personnel costs for 301 positions	$2,760,500
Increased funded force to 96% of authorized force	2,048,600
Additional sedans (103) and replacement sedans (136)...	818,700
Additional trucks (173)	2,256,100
Replacement sedans (130)	780,000
Replacement trucks (154)	1,386,000
Sensor system (Yuma and El Paso)	1,900,000
Mobile radios (309)	401,700
Portable radios (119)	119,000
Sensor enhancement	50,000
Miscellaneous electronic needs	43,100
Alien travel, detention and welfare	700,000
Expand El Centro Service Processing Center	110,500
DOJ Payroll and OPM investigations	545,000
Ammunition	115,500
Operating costs for helicopter at Chula Vista and El Paso	92,800
Northeast Border staff augmentation due to Winter Olympics	28,000
Purchase 2 helicopters (Chula Vista)	66,000
Fund Central Office management positions	276,100
Miscellaneous Border Patrol operations	2,400
	$14,500,000

Border Patrol

2. *What effect will the deletion of 160 positions from the border patrol force have on border operations? Where will decreases be absorbed? What appeals were made to OMB?*

The Service's intention was to assign 140 of 150 officer positions (the additional 10 being support positions) to direct enforcement duties in highly active locations along the Southwest Border. Their intended effect was to have been an increase in the visible presence of the border patrol in these areas and, when incumbents reached full performance level, an increase in the apprehension of deportable aliens at approximately the rate of 425 per workyear.

The Service, through the Department of Justice, appealed the reduction in November 1979. Of 310 positions initially deleted, 150 were restored. The appeal by the Department cited the effect the positions would have on the Border Patrol's preventive role as well as the direct effect on apprehension levels. The appeal noted the desirability of retaining the positions in the FY 1981 budget to maintain the authorized level of staffing personnel to assure the full benefit of the staffing increases in the FY 1980 budget.

Border Patrol

4. *The Service reprogrammed 70 positions from and added 216 workyears to the Border Patrol operation prior to December 31, 1979. Explain these actions and the effect on border enforcement operations.*

The reprogramming of 70 positions from the Immediate Border Program was made to properly align the operational functions of these positions with the programs they supported. Thus, 57 positions whose duties involved anti-smuggling enforcement were moved to the Anti-Smuggling Program and 13 positions involving detention duties were moved to that program. The reprogramming had no effect on border enforcement operations.

The estimated increase of 216 workyears to Border Patrol in FY 1980 is a technical adjustment as a reflection of the actual workyear cost in FY 1979.

Border Patrol

3. *What effect will the cut of 39 positions from the Border Patrol (Other than Border) have on interior apprehensions? What appeals were made to OMB against this decision? What were OMB reasons for decreases, both in 160 and 39 positions?*

A cut of 39 positions from the Border Patrol will not occur in FY 1981. An addition of 24 positions for FY 1980 was not staffed this fiscal year because of the impending requirement to reduce 39 positions by FY 1981. As a result there will be a net reduction of 15 positions in Other Than Border enforcement positions.

In the budget process, the available dollars must be divided among all deserving programs. We have been charged with the responsibility of developing cost-effective alternatives for implementing our program. Among these alternatives is the use of technical, strategically-directed details into areas where undocumented aliens are known to be concentrated. By this approach, we expect to accomplish the same results as would be achieved by additional personnel.

Anti-Smuggling

1. *The Service requested 18 additional positions in this activity. Why was this increase requested? What effect will the denial by DOJ and OMB of these positions have on the over-all anti-smuggling program? What is needed to increase productivity and efficiency of this unit?*

It is our view that one of the most successful means, within the existing laws, to deal with the problem of undocumented aliens is through economic sanctions. One way of imposing such sanctions is to impede the movement of illegal aliens by professional smugglers. We are concentrating our intelligence capabilities and a share of our enforcement resources on this effort. We are utilizing the automobile seizure laws to supplement our efforts. We are also encouraging the U.S. Attorneys to prosecute these cases and the courts to impose sentences reflective of the serious, professional nature of alien smuggling.

In FY 1979 forty-four officer positions were added to the Anti-Smuggling Program's operation within the Border Patrol sectors (as distinguished from that portion of the program administered through immigration districts). There was no addition of positions for clerical support. This brought the balance in the authorized force of 120 to 109 officers and 11 clerks. All of the 18 requested positions for FY 1981 were for clerical support. The increase was requested to reduce officer time spent on clerical and administrative duties, and thereby redirect that time to criminal law enforcement functions.

ADIT

1. Explain the decrease of 68 positions in ADIT.

This decrease represents the final transfer, which began during FY 1979, of field positions to the operational divisions where all ADIT-funded field positions have always been intended for assignment. The transfer is essentially one of budgetary control of those positions. These positions will be integrated with other field operational personnel who now have as a part of their responsibility the performance of identification card applicant processing functions. Along with the transfer, the operating divisions have now assumed the ongoing applicant processing responsibilities, with the ADIT Program functioning more as technical operations support. Card production and issuance levels will not be adversely affected by the move.

ADIT

2. In view of critical report by GAO of the ADIT system and the limited enforcement capability of the system, what is the present evaluation of the program and its eventual use as a tool in enhancing enforcement activities?

The ADIT system was designed and approved as a specific attack on the serious problems associated with fraudulent alien documents. In view of the serious substantive questions that have been raised, it will be essential to get an independent assessment of the ADIT capabilities. The system is now serving an operational need by producing secure identification cards. We expect that the system will be modified as the result of evaluation and in light of the system development effort now underway.

ADIT

3. What cooperation presently exists between the Service and the Select Commission on the institution of a national identity card? What thought has been given to using the ADIT system within this context?

The ADIT Program management and other INS officials have participated in numerous discussions with Select Commission members and staff regarding the national identity card.

The ADIT system was designed for alien documentation and identification. It necessarily involves many quality and security features necessary for its relatively demanding function: the integration of an identification document to a corresponding automated record and to the individual alien entitled to hold the document. This system would probably be too expensive for use by the total population.

ADIT

4. *What progress is being made in cooperation with the Department of State in the reading of visas and passports within the system?*

Coordination is being maintained with the State Department to keep them advised of ongoing ADIT system testing, and to stay abreast of their computer-readable visa and passport development activities. Planning for expansion of document reading experimentation to include nonimmigrant visas and U.S. passports at airports and possibly land border ports is underway. Experimental activity is projected to include modification and/or addition of computer terminals to read the types of documents encountered at both land and air port locations. Card reading testing is expected to occur in FY 1981, extension to visa and passport reading is planned during late FY 1981 into FY 1982, and first volume operational implementation of document readers is projected beginning in FY 1983. Except for test equipment expenditures, no funds for document reading are included in ADIT Program budgets already submitted.

ADIT

5. *What will be the total eventual cost of the system? When will it be totally operational?*

Total cost attributed to the ADIT Program through FY 1980 is $28.5 million. Of that amount, approximately $21 million has been expended for technical development and operational costs. The remaining $7.5 million is for field office personnel costs. The card production and issuance segment of ADIT is now being considered an operational cost at a yearly recurring level of approximately $4 million. Future development and implementation activities will depend on the evaluation of the current system and on the modifications required as a result of our current systems design effort.

Investigations

1. *In FY 1979, investigations had an authorized force of 957 positions. In FY 1980 this force was reduced to 798, the level to be maintained in FY 1981. What will be the total effect on the investigation effort of this reduction?*

This reduction of authorized workforce within the Investigations Program category has been the result of an organizational shift in the disposition of investigative and other resources. While the number of criminal investigators employed by INS at the beginning of FY 1979 stood at 1,095, employees in that category as of April 1980 numbered 1,104. We are developing procedures to insure the most effective use of our investigatory resources, including the re-assignment of routine verifications to other, more appropriate personnel thereby freeing investigators for more complex matters. We are using our investigatory resources in a more strategic manner (e.g., anti-smuggling) and therefore expect to be able to perform the investigative function in a more effective, efficient manner.

Investigations

2. *What Area Control activities are presently being carried out? What factors prevent total effort in this activity?*

Area Control investigations involve the detection and apprehension of deportable aliens in the interior of the United States. We are focusing these activities in an effort not only to apprehend aliens but to have an economic impact on those individuals and groups that benefit from the presence of undocumented workers. We are developing strategies and tactics to reach these profiteers. In this effort, we are working with a number of other agencies, including the Departments of Labor and Health and Human Services and OSHA. In this way, we expect to impose serious sanctions on those employers who not only employ illegal aliens but threaten the health and safety of those workers. The use of search warrants in these investigations has required our investigators to develop cases with great particularity.

Investigations

3. *How does the reduction impact on the investigation required for adjudications and other dual-action cases?*

We do not expect any adverse results. The focus of the Service's initiatives in Dual Action cases has been to assure that only those cases involving issues subject to resolution through the investigative process are referred. Adjudications has established appropriate review procedures to this end and has been provided with some additional workforce to meet the requirements.

Investigations

4. *What are Area Control investigations? Non-dual action investigations? Dual-action investigations?*

Area Control investigations are primarily the detection and apprehension of deportable aliens who have illegally entered and obtained employment in the interior of the United States.

Non-Dual Action investigations generally involve cases in the following categories: issues of fraud, criminal or immoral conduct or narcotics use, subversive conduct, visa irregularities, citizenship revocation, school certification; and apprehension of deportable aliens who have absconded. They exclude cases related to area control, status verification and other dual action matters, and anti-smuggling.

Dual-Action investigations are conducted on referral from other branches of the Service or from the Department of State on cases in which immigration and naturalization benefits and other status verification issues cannot be resolved through file review, collection of records and documents, or interview with the alien involved.

Investigations

8. *What are present court restrictions on investigations? What impact do these restrictions have on operations?*

Presently, the Blackies House of Beef, Inc. v. Leonel J. Castillo, et. al. case is having an impact on the investigations activity in that it affects INS searches of places of employment for undocumented aliens. The ruling, concerning authority for use of search warrants under Federal Criminal Rule 41, enjoins only our district office within the boundaries of the United States District Court for the District of Columbia, and is not Service policy. However, in some other judicial districts, United States Magistrates base denials for such warrants on the Blackies' decision.

The Solicitor General has now appealed the District Court's decision.

A second case involving the same litigants is now included in this appeal. This additional case involves the use of a civil warrant issued by a U.S. Magistrate. The U.S. District Court for the District of Columbia found that this warrant lacked sufficient particularity and failed adequately to protect the employer from disruption of business activities.

In an April 16, 1980 decision by the U.S. District Court for the Central District of California, Zepeda v. The Immigration and Naturalization Service, the court issued a preliminary finding enjoining the Service from engaging in the search of residences and of non-public areas of businesses, from seeking or utilizing the services of local and State police agencies except in certain restricted circumstances, and from questioning individuals in police custody without first determining that they are lawfully detained. On May 15, 1980, the Service submitted a request for appeal to the Department of Justice.

Investigations

6. *Recap the Iranian student operation. What costs were involved? How were these financed? What negative impact did this operation have on the total investigative effort?*

On November 10, 1979, in response to the crisis created by the detention of American citizens in the American Embassy in Iran, the President ordered the Attorney General to identify Iranian students in the United States who were not maintaining status and to take immediate steps to commence deportation proceedings against such persons. The Attorney General directed the Immigration and Naturalization Service to issue regulations requiring all nonimmigrant Iranian students to report their present location and status promptly to the nearest INS office and to take additional actions to identify and locate all Iranian students to determine their immigration status.

In compliance with this directive, the regulations governing maintenance of status by nonimmigrant students were amended to require Iranian students in the United States to report within 30 days to the nearest INS office or to an INS representative on campus and to present certain information verifying location and status as a student. Failure to report as required or providing false information to the INS would subject a student to deportation proceedings for failure to comply with the conditions of nonimmigrant status. These regulations were issued under the authority vested in the Attorney General by Section 214(a) of the Immigration and Nationality Act, U.S.C. 1184(a) and went into effect on November 13, 1979. This revised regulation made immediately effective, as to Iranian students, the provisions of the law which defines as conditions of status the obedience to laws of all jurisdictions of the United States and the provision of truthful information to the INS. INS took immediate action: contact with colleges for their cooperation; notifying the Department of State concerning more vigorous screening of nonimmigrant Iranians seeking entry to the United States; special inspection procedures to identify Iranians entering for other than stated purposes; daily reporting on departing Iranians; procedures for investigation of Iranians with known arrest records, and those granted extended voluntary departure; and requirements that Iranians identified as students report within 30 days to verify their educational status.

INS employees from other functions were detailed to assist in their tasks, and overtime on an as needed basis was authorized on November 11, 1979.

Investigations - 6

In December the regulations concerning deportation of Iranian students were held unconstitutional by the U.S. District Court for the District of Columbia and orders to terminate the project were issued. Three days later the decision was overturned on appeal and proceedings were recommenced.

By the end of 1979 the registration phase of the program was completed with the registration of 56,700 students of whom 6,900 were initially found deportable. Of this group, approximately 1,000 were granted voluntary departure. As of March 1980, 60 had been deported. Approximately 800 found to be deportable have applied for political asylum in the United States. An estimated 10,000 Iranian students did not report during the registration period. As of March 1980 approximately 700 of this group had been located by the Service.

Estimated direct obligations (personnel costs, travel, etc.) for this operation by all components of the Service as of March 31, 1980 totaled $2,808,000. This includes costs for individuals who were temporarily assigned to the project away from their regularly assigned duties. Of this total, approximately $1,800,000 was expended during the registration phase. To date these costs have been absorbed by existing allotments of the various components of the Service which participated in the operation.

The significant resources from Investigations and from other INS programs committed to this project have resulted in the necessary deferral of that work for which those resources would normally have been expended. Because the project involved extensive travel and use of overtime, funds earmarked for these areas are notably depleted.

Detention and Deportation

1. *Describe all facets of the new Service Processing Center in Miami for Haitians.*

There is no Service Processing Center (SPC) in the Miami District; the nearest SPC is Port Isabel, Texas.

The influx of Haitians and Cubans has placed extraordinary demands on the Service's resources in the Miami area. It is increasingly difficult, and expensive, to find facilities for those who must be detained. FEMA has recently acquired a non-Service facility, the Krome Nike Missile Site, at which several hundred Haitians and some Cubans will be housed. INS has also negotiated with the Salvation Army to provide secure non-institutional facilities to house undocumented aliens. Such facilities provide a more humane setting for those who do not require greater security. We are attempting to develop additional residential facilities under the control of social service and voluntary agencies, not only in the Miami area but throughout the country.

For those aliens requiring confinement, there are nine major jail and juvenile facilities in the Miami area, and the Bureau of Prisons has offered additional space in its federal correctional institution.

Detention and Deportation

2. *What is the current status of the ACLU court action against the Service with regard to the Brooklyn Processing Center?*

In 1975, the Brooklyn Service Processing Center (SPC) was quickly pressed into service as the sole detention facility for the northern and eastern parts of the country. This was a result of the termination of the lease on the 20 West Broadway office and the unexpected cancellation of an agreement by the Bureau of Prisons to house up to 100 INS detainees at their MCC facility in New York.

Although not intended for permanent use, basic renovation of the deteriorating facility was expedited, and it was opened for use in May 1975. Continued renovations permitted use up to capacities of 168 males and 56 females after March 1977. A suit was filed by the New York Civil Liberties Union on March 27, 1979 on behalf of one Lam Man Chung, and all others similarly situated, to improve conditions at the Brooklyn SPC, or require its closure. That case was filed in the U.S. District Court, Eastern District of New York.

Negotiations to achieve settlement of the case are ongoing. Continued and additional improvements of conditions and procedures have been made or are projected. Subsequently, the facility is scheduled to be moved to a new location at 201 Varick Street.

Detention and Deportation

3. What is the present status of the move to 201 Varick Street in New York? What facilities will be encompassed in the new installation?

The Brooklyn Service Processing Center which opened for use in May 1975 was intended only for temporary use while a decision of the location of a permanent facility was made. That location was determined to be 201 Varick Street, New York, N.Y.

Pursuant to agreement with GSA, continued refinement of requirements and specifications were completed in FY 1979, culminating in finalized floor plans in September 1979.

Information for GSA's use in preparing an Environmental Impact Statement was collected by INS and presented in December 1979.

During the remainder of FY 1980, GSA will complete the Environmental Impact Statement activity, including publication, and will let construction contracts. It is expected that the new facility will be ready for our occupancy by mid-FY 1981.

The Service Processing Center when relocated at the INS District Office site at 201 Varick Street will occupy an entire floor of the building. It will include a detention facility, an overnight sleeping area, dining, recreation and visitation facilities, a reading/library area and a medical facility. It will include provisions for men and women detainees as well as family units.

Detention and Deportation

4. What are the standards being applied by the Service in operating Processing Centers? What improvements will be made to conform to these standards?

Presently, standards of detention for INS are set forth in the Service's Administrative Manual and Immigration Detention Officers Handbook. The Service is in the process of developing a comprehensive set of standards similar to those by the American Correctional Association and the Department of Justice.

Improvements in the areas of policy and procedure, personnel and material resources will be necessary to meet the projected standards. This is expected to extend over at least Fiscal Years 1981 and 1982.

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Detention and Deportation

5. *What is the justification for the Port Isabel Processing Center? What is the present status of building conversions? What beneficial impact will this facility has on detention costs?*

A Service Processing Center (SPC) provides a full range of services including dormitory, mess, recreation, visitation, medical, and deportation hearing facilities. The Port Isabel, Texas SPC facilitates the detention of undocumented aliens for limited periods of time pending the completion of deportation proceedings and their expulsion from the United States.

This facility is necessary to serve the large population of undocumented aliens who are apprehenced by the border patrol and investigations in the lower Rio Grande Valley and from as far away as San Antonio, Dallas, Houston, and Corpus Christi, Texas; New Orleans and Lake Charles, Louisiana; as well as areas of Oklahoma and Arkansas.

The Center was located at this site in 1961 when the surplus, former World War II Navy training camp at Port Isabel was acquired by INS to house the Border Patrol Academy. The structures that were utilized to form the nucleus of the detention facility were the original World War II buildings that were designed for a twenty-year life. To further exacerbate the physical problems at the base, the environmental conditions of soil erosion, salt air and general weather conditions are extremely hard on utilities which are exposed. Over the years only a minimum of maintenance was done by both the Navy and INS.

The renovation/construction of the SPC is being implemented in two stages while keeping the existing facility in operation.

Stage one will include the following: repair or replacement of all base utilities (power system, water system, sanitary system, and miscellaneous air conditioning system); moving the Processing/Administration Building, one dormitory building, and appropriate site work. Stage two involves moving the remaining facilities: mess hall, dormitories and post maintenance.

GSA architects began design of the site utility upgrade on March 31, 1980. The bids for the first phase of the SPC move were opened on May 2, 1980, and a contract will be awarded in the near future.

The facility serves a dual function; as an overnight facility for undocumented aliens requiring stays of more than one day, and as a staging area for aliens removed from the interior of the United States to the border. The planned renovation will increase the facility's overnight capacity from 230 to over 300 aliens and, therefore, reduce INS' dependency on more expensive non-INS detention facilities. The renovation will also expand the facility's staging capability and allow for the prompt removal of aliens from interior locations.

Naturalization Program

1. *What are present petition receipts? What level of production was achieved in 1979? What are present backlogs? What is the average length of time for processing a naturalization petition to completion?*

In FY 1979 there were 250,000 applications for naturalization. Incoming applications during the first several months of FY 1980 form the basis for projected yearly receipts of 280,000. Completions during FY 1979 totaled 232,826. The number of applicants whose cases had not been initially heard by INS at the end of that fiscal year was 98,000 and as of April 1980 it was 107,000. Processing times vary widely from office to office. The average processing time is approximately five months.

Since 1965 there has been a steady increase in the number of persons becoming permanent resident aliens of the United States. Each year adds to the pool of prospective candidates for naturalization. In FY 1971, 148,000 applied for naturalization; thus the number who will apply this fiscal year represents an 89% increase. Alternatives to increased productivity are being explored, including the consolidation of some functions, and the elimination of certain unnecessary procedures.

Naturalization Program

2. *To what extent has the employment of paralegals been implemented? What advantages are realized from the use of paralegals instead of attorneys?*

The use of paralegal specialists in the Naturalization Program was the subject of experimental development between early 1976 and 1978 and was expanded in 1978 to include high volume offices where the bulk of the work is done. There have been 22 paralegal positions authorized as a supplement to the attorney force. Additionally, it was contemplated that a total of 28 attorney positions would be converted to paralegal by attrition as vacancies occur. There have been 24 such conversions, bringing to 46 the current number of paralegals authorized. This number will increase by four through further attrition.

Paralegals are adjunct to attorneys. They work with attorneys and under their supervision. They perform duties at the preliminary hearing stage thereby freeing attorney time for more complex matters.

The Service intends to continue to extend the use of paralegals in the naturalization process.

Naturalization Program

3. *What workload is expected in Spring 1980 when thousands of Indochinese refugees become eligible for naturalization. What plans are being made to confront this situation?*

The first arrivals from the initial wave of Vietnamese refugees that began in the Spring of 1975, become eligible for naturalization in Spring 1980. Studies show that about 54,000 are in the 18 to 47 year-old age group, which is the most likely to apply for naturalization. Another 7,000 are in the 48 to 64 age bracket, which may also apply in significant numbers. Few persons over age 65 are expected to apply because of the English language requirement. Additionally, 33,000 children are expected to derive citizenship through their parents' naturalization. Undoubtedly there will be thousands of applications for Certificates of Citizenship. It is important to note, however, that this group is not a one-time influx, but represents merely the first wave of a long-term increase in the number of applicants for naturalization growing out of refugee programs.

Because of backlogs which existed in the Naturalization Program prior to the initial impact of the Indochinese refugees, the Service has taken steps to increase productivity and to streamline procedures. The Service also supports the enactment of the INS efficiency package currently pending in Congress. We have also made efforts to facilitate the passage of the Indochinese refugees through the Naturalization process by working with voluntary resettlment agencies throughout the country. Their help has been invaluable in assisting refugees in preparation of applications, assistance at final hearings, assistance with some clerical chores and in the conduct of familiarization and educational programs.

Adjudications

2. To what extent does the Remote program contribution to this operation?

In FY 1979, 45 percent of all adjudications completed were under the Remote program: 800,000 of 1,773,000 cases. With few exceptions, the adjudications completed in this manner are the less complex ones which do not require personal interviews and can be acted upon on the basis of the information and documentation presented. The program utilizes the "standby" time of Service inspections officers, who by the nature of the inspection workloads, in some instances are not performing inspectional duties for their entire work day. The program insures that inspectional personnel have work to perform at all times and at the same time contributes to the Service objective of providing the best possible service to the public.

Adjudications

1. What are present workloads? What increase in workload is expected and for what reason? What is the present backlog?

Requests for adjudication of status for the first half of FY 1980 have averaged 160,000 per month. Trends in receipts are as follows:

FY 1977 - 1,400,000
FY 1978 - 1,700,000
FY 1979 - 1,900,000

Cases completed for the first half of FY 1980 have averaged 150,000 per month with a first half ending caseload of 240,000. Our FY 1980 caseload estimate of 2,160,000 represents an increase of 260,000 (11.6%) over FY 1979. Anticipated receipts for FY 1981 are 2,440,000, an increase of 280,000 (13%) over FY 1980. The present backlog (cases delayed beyond the normal period of processing) is 80,000 cases, representing approximately 85 workyears.

Adjudications

3. *What is the San Ysidro Adjudications Processing Center? What advantages are perceived in establishing adjudications processing centers in separate locations removed from district offices?*

The San Ysidro Adjudications Processing Center is a pilot project established to test the effectiveness of a center devoted to adjudications. When fully staffed, the center will have a supervisory immigration examiner, nine immigration examiners, one supervisory clerk and nine clerical personnel. The positions for the center are taken from the authorized staffing within the Western Region as vacancies occur and therefore do not represent an increase in the region's work force. At the present time the staff consists of the supervisory examiner, four examiners, one supervisory clerk and eight clerks. The center now performs adjudications for the Los Angeles and San Francisco District Offices. The center is under the administrative direction of the District Director in San Diego but the work assignments and production monitoring is under the direction of the Western Regional Office. If this concept proves effective in meeting Service needs, we will consider establishing similar centers in other parts of the country.

The perceived advantages are as follows:

(a) Higher production and higher quality work is performed in an environment free of other tasks.

(b) A more stable workforce drawn from a smaller community will reduce the personnel acquisition and training costs and loss of production due to high turnover which is a significant staffing problem in our district offices.

On the basis of statistical reports covering the months of December 1979 and January 1980, the production per officer at the San Ysidro Center has been more than twice the nationwide average. While it is not possible to drawn firm conclusions from the short period of time the center has been in operation, the results so far indicate that this concept may be one answer to our problem of coping with a mounting workload.

Information Services Program

1. *What steps have been taken to improve telephone service at District offices? What further is contemplated?*

The installation of a Telephone Information Processing System (TIPS) at many district offices has resulted in significant improvements.

The system will automatically answer calls with a pre-recorded announcement on incoming lines which have an expanded call-handling capability. It automatically places calls on hold, monitors holding time and then switches them for service on a first-come, first-served basis. While on hold a recording of general INS contact information, such as where to call for forms, is played. These systems or modifications have been installed and are operating in fifteen district offices -- Houston, Washington, Atlanta, Los Angeles, San Francisco, Dallas, San Diego, Phoenix, Boston, Detroit, Honolulu, Miami, Philadelphia, Chicago, and New York. In addition, tape libraries, a system of providing callers with recorded tape messages on various aspects of immigration and naturalization, are installed at two district offices on a test basis. Preliminary reports are coming in on the tape library locations indicating that the system has been very well received by the public.

Four more TIPS are planned in FY 1980 to be installed and operating at Newark, Baltimore, San Antonio, and an updated model at Washington's new location. Nine additional installations are planned for FY 1981.

Information Services Program

2. What action has been taken to improve waiting room facilities? What funds are available in the FY 1981 budget to continue improvements?

Waiting room facilities have been renovated and furnished with sturdily-built, comfortable furniture. Approximately $6,600 per office has been spent for new furniture and renovating in about 33 field offices. In order to further improve facilities, the following will be done: a) the Los Angeles District Office will expand the information services area; b) both the New York and Washington District Offices will relocate to new and expanded facilities; and c) the Newark District Office will relocate to expanded information services facilities.

The 1981 budget contains the base monies carried forward from the previous year, approximately $200,000.

Information Services Program

3. What is the present level of services to the public accomplished by telephone, counter and correspondence facilities? What action is being taken to improve deficiencies in these types of services?

The Information Services Program is presently able to provide the following levels of services as a nationwide average:

(a) Approximately 96% of telephone inquiries are answered, including approximately 35% within a servicing time of nine minutes.

(b) Complete response to approximately 95% of "in-person at the counter" inquiries, including approximately 65% within a servicing time of 2-1/2 hours.

(c) Answer approximately 93% of written inquiries, including approximately 70% within a servicing time of 31 calendar days.

These levels of services represent nationwide averages. INS acknowledges that notable variations will occur due to unresolved differences in staffing to workload ratios.

At present resource levels these levels of service will be continued in most service areas. On-going record improvement efforts should have a significant positive effect on correspondence completion time.

Information Services Program

4. What are the duties of the Contact Representatives? What considerations are being given to altering facilities and procedures to improve contacts with the public?

The duties of the Contact Representatives include providing answers relating to all aspects of benefits and privileges under immigration laws, regulations and procedures, through personal, telephonic and written contact; furnishing proper forms and instructions for preparation; determining eligibility for adjustment of status and scheduling appointments for interviews; collecting, recording and/or verifying fees for applications; providing responses to FOIA and Privacy Act inquiries; providing official verification from Service records to requestors; taking fingerprints and/or reviewing fingerprint charts for acceptability; and maintaining the public reading room with updated materials and periodicals.

Improvements in service to the public have been made by introducing better telephone systems to enable timely responses to calls. Special telephone numbers for forms and tapes of answers to standard questions have been introduced. In the larger offices, the walk-in public is initially screened and directed to the appropriate counter window for most expeditious handling. Word processing equipment is being introduced to more rapidly answer correspondence requesting standard information. Forms racks and custom-styled counters for easier work effort by both Contact Representatives and customers have been installed in several Information Service areas to improve operating facilities.

Refugee and Parole Program

1. *The FY 1981 budget calls for 33 additional positions in this activity. Where will this additional personnel be assigned and what will be their duties? How many INS people are now assigned to this operation overseas on a permanent basis? Detail temporary duty assignments carried by INS in this activity overseas in FY 1979. What was the total cost of these assignments. To what extent will the additional personnel have on TDY assignments?*

These positions to augment staffing at existing INS overseas offices have been proposed in the second FY 1981 supplemental budget request which has not yet been approved. In the event of approval, assignments will be made to best meet the needs of the Refugee Program. As with other INS officers assigned to overseas posts they will perform three major functions in addition to liaison and information, and general service to the public: adjudicating applications and petitions for benefits under the I&N Act, conducting case studies (investigations) requested by stateside officers, and assisting in administering refugee processing by evaluating requirements for refugee status (INS and the Department of State are currently working together on regulations implementing the Act's provisions).

As of May 8, 1980, there were 26 U.S. officers, nine U.S. clerical, and 31 foreign service locals assigned to this operation overseas on a permanent basis.

During FY 1979, 21 officers were detailed to Southeast Asia for 60 days each, 14 officers were detailed to Rome for 60 days each, and 21 officers were detailed to Cuba for 45 days each. These detailed officers were used to augment local staffing in the processing of refugees. During FY 1979, 136,589 refugees were processed overseas with an anticipated 231,700 to be authorized for admission during FY 1980. In FY 1979, $374,255 was expended for 108,875 refugees who were authorized entry into the United States. (The difference between the number processed and the number admitted represents those individuals processed in FY 1979 but whose authorized entry did not occur until FY 1980.) In FY 1980, 1981, and 1982, the authorized refugee flow has been increased to 231,700.

Refugee and Parole Program

2. *What changes will occur in INS activities overseas as a result of P.L. 96-212, the Refugee Act of 1980?*

With the lifting of all geographic limitations for refugees, the INS will work in cooperation with the Department of State to insure that refugee processing will be able to facilitate whatever groups of refugees the President mandates.

Arrangements have been made with the Department of State for Consular officials to process refugee applications from areas which are remote from existing INS offices. They will interview applicants, telecommunicate standard information elements and recommendations to the involved INS office where an official of the Service will make the determination.

Refugee and Parole Program

3. *What is the current status of each on-going parole program as of February 28th?*

Indochinese: Consistently processing 14,000 per month.

Soviet and Eastern European: Consistently processing 3,000 per month.

Lebanese: 349 of the 1,000 authorized total have been approved. (There were 499 applications with 107 cases pending and 43 cases not resulting in a commitment.)

Cuban: Political prisoners - 2,997 of the 3,550 authorized total have been approved. (As of March 31, 1980 the total authorized number had been committed.)

South American: 50 of the 500 authorized total were approved. This low number is due to delays imposed by the Government of Argentina in releasing prisoners and in allowing their departure from the country.

Refugee and Parole Program

4. Please furnish a breakdown of refugees processed in FY 1979.

Indochinese	75,778
Soviets and Eastern Europeans	52,827
Cuba	4,584
Afghanistan	102
Algeria	1
Brazil	1
Burma	15
Chile	4
China	1,184
England	3
Ethiopia	335
France	4
West Germany	4
Ghana	1
Greece	34
Hong Kong	36
India	1
Indonesia	54
Iran	6
Iraq	1,479
Israel	5
Jordan	2
Lebanon	1
Mexico	1
Mozambique	1
Nigeria	1
Palestine	4
Singapore	7
Spain	25
Sudan	1
Switzerland	2
Syria	69
Thailand	5
Turkey	12
Total	136,589

Refugee and Parole Program

5. Describe any difficulties encountered by INS in assigning personnel abroad.

In September 1979, INS, through the Department of Justice, requested increases for the overseas personnel level from the Department of State which administers the "Monitoring Overseas Direct Employment" system (MODE). Increased MODE level approvals by the Department of State have been received as of April 1980 for all positions except the request for four positions in Rome.

Refugee and Parole Program

6. Describe INS processing of Soviet Jews in Rome, Italy.

Soviet Jews have been processed in Rome at an average rate of 2,200 a month for FY 1980 (October 1979 thru April 1980) as a part of an average rate of 3,000 Soviets and Eastern Europeans per month. The number of applications from Soviet Jews has been declining in recent months. The cause of the decline is presently the subject of a range of conflicting opinions; therefore, projections of future application rates are in doubt.

All Soviet Jews who apply for refugee status are processed; the total processing time for registration to relocation in the United States is now five weeks: one week for registration with a voluntary agency and for the agency to present the application to the INS, three weeks for security processing and interview by the INS and, after INS approval, one week for the voluntary agency to arrange transportation to the United States.

Support Operations

1. What initiatives have been taken to increase Customs/INS cooperation in data communications?

The Commissioners of both agencies have been meeting on a regular basis which has resulted in the resolution of particular problems quickly and efficiently. Staffs of both agencies have been drawn together in a positive fashion which has enhanced the joint responsibilities at the land and air border ports.

Support Operations

2. *What is the present status of radio systems used by INS? What improvements are contemplated?*

The INS radio system replacement program has established an eight year cycle as the average replacement requirement. Typically after that period, equipment failure rates increase significantly and maintenance becomes increasingly difficult. After about ten years parts become unavailable. The replacement schedule is significantly behind the eight year standard.

All Border Patrol sectors are equipped with extensive radio systems. Many districts are equipped with smaller systems, although some district offices are still essentially without communications support.

The last replacement program was accomplished in FY 1978, when all sectors in the Eastern Region were provided with replacement systems. At that time the older systems were already well beyond the target replacement age by more than a factor of two. Presently, the Detroit sensor system is even beyond that age and is being selectively shut down as repeaters fail due to the impossibility of maintenance. This older equipment does not meet modern standards as set by the Interagency Radio Advisory Committee and it is being operated under a waiver which expires in November 1982.

Many systems along the Southern Border are approaching or have passed the eighth year target.

Improvements in land mobile communications have been made in many sectors through the introduction of computer-aided dispatch facilities, which represent a marriage of the communications and sensor systems and result in more efficient and effective use of both.

Support Operations

3. What is the present status of sensor systems? What improvements and modifications are foreseen?

The nine border patrol sectors along the Southwest Border are equipped with sensor systems. Because of the highly mineralized soil in which sensors and related devices are placed which results in major corrosion problems, a five-year replacement cycle has been found necessary. Replacement has fallen behind schedule because of fund limitations in FY 1977 and FY 1979. In affected sectors, systems continue to be operational, but with very limited reserve capability.

The current generation of replacement systems represents a significant improvement over earlier systems. The most important areas of improvement are in packaging of buried devices for immunity to corrosion and in automation of the sensor monitoring and dispatch function. The first such systems were procured for the Chula Vista and El Centro Sectors in FY 1976. Similar systems were procured for Laredo and Del Rio in FY 1978; these are now in the final phase of installation and acceptance testing.

Sensors are deployed in basically three types of locations: along the border, in remote areas, and in and about traffic check points. Study and analysis is continuing to determine the most effective deployment of sensor technology. We already know that the use of sensors in heavily populated areas is unsuccessful because of the extremely high number of "false positives." The cost of apprehensions resulting from sensor detection in remote areas must be compared with the cost of apprehensions using other alternatives; it may be that such systems have marginal utility. This additional analysis is on-going, and, as we develop further expertise in sensor-detection, that expertise will be reflected in our decision-making.

Data Systems

1. *What is the present status of the "hold" placed on INS by the Government Operations Committee?*

The "hold" remains in effect. Its terms require INS to reevaluate current automation efforts and place these efforts in the perspective of total INS automation requirements. Field automation for the Integrated Case Control System (I.C.C.S.) has been deferred pending the results of these evaluations and plans.

A major Servicewide planning effort with primary emphasis on automation is now underway. It will provide for an orderly and comprehensive approach for the Service's acquisition, implementation and use of automation technology on both a near-term and long-range basis. Its initial tasks include the development of a mission plan, an information requirements study and a systems design study.

The Government Operations Committee is aware of this effort and is expected to review its progress in September 1980. The Service will make no proposal concerning the "hold" before that time.

Data Systems

2. *Of the $3 million authorized by Congress for FY 1980, what expenditures and obligations have been made and for what purposes? What use is contemplated for any monies not expended?*

As of mid-May 1980 some $856,000 has been allotted for costs of records improvement and support equipment, training, personnel transfers and travel. Approximately $812,000 is to be used for leasing of existing equipment and terminals jointly used by the U.S. Customs Service and INS. The Service is initiating reprogramming action for $1.4 million to meet critical operating deficits caused by the Cuban Refugee Parole Program.

Data Systems

3. *What is the status of the new Nonimmigrant Arrival/Departure Control System for which Congress appropriated $250,000? At what point will there be some tangible results of the study?*

The $250,000 will be used to fund a requirements study of nonimmigrant control under contract and will be obligated during FY 1981. The study is to identify and assess information requirements, current capabilities and alternative information sources with respect to nonimmigrants in the United States. The study's scope of work is currently being reviewed by top management of INS. By the end of June 1980 it is to be submitted to the Department of Justice for final approval. The study will take approximately one year to complete. Concurrent with the study the Service will conduct the systems planning necessary before any major system's acquisition.

Records Management

1. *What difficulties are being encountered in this area? What steps are being taken to rectify any shortcomings?*

INS records management has experienced the following problems:

(1) Duplicative forms and unnecessary information.

(2) Inability to maintain the records staff at full strength.

(3) Inadequate management of contractual services for reduction of Central Office records' backlogs, and restriction on overtime and temporary hires for the reduction of regional records' backlogs.

(4) Absence of adequate career development paths in records production areas, limiting opportunity for advancement. This results in a loss of skilled Records personnel and a high turnover in employment.

(5) Inadequate facilities resulting in crowded working conditions, inadequate storage and work areas that cannot be properly maintained. This, in turn, results in very low morale.

(6) Records automation problems which have resulted in inconsistent approaches. This has resulted in new systems or system enhancements becoming operational at a very slow pace.

The following is a summary of the steps being taken to rectify known shortcomings:

(1) Examination of forms toward consolidation and simplification.

(2) Establishing a control on records workload levels so that requirements can be identified and contractual services used to reduce backlogs in the Central Office.

(3) Establishing team chiefs as "work-leader" positions in the Central Office records production areas. These positions will be one grade higher than the record technicians they lead and will be able to compete for supervisory positions.

(4) Developing a long range plan for upgrading offices, records production areas and equipment.

(5) Coordinating between records management and ADP system design in the records design effort and assisting in advancing the automation of record keeping needs.

Records Management

2. *Describe the results of the special Task Force assigned to look into the file situation in the New York District Office. What new procedures have been instituted which could be applied to other District Offices?*

The special Task Force assigned to examine and act on the record situation in the New York District Office took the following actions:

(1) Instituted new procedures for controlling files in the various operating sections.

(2) Developed written procedures for the special search operation.

(3) Implemented control procedure of employees from other units removing files.

(4) Implemented procedure requiring sequence checks of file banks.

(5) Recommended that the Files Unit be reorganized to enhance supervision and to more logical group functions.

The special search procedures which have been instituted in New York are to be applied to other district offices. Instructions for inclusion in the Service's Administrative Manual are now being drafted.

Administrative Services

1. What difficulties have been encountered by INS in staffing positions?

INS has encountered difficulties in staffing clerical, intermittent and part-time immigration inspector and trainee border patrol agent positions.

Clerical Positions

The Service experiences difficulties in staffing clerical positions in major metropolitan areas such as Detroit, Chicago and Los Angeles where the Federal Services compensation practices are not fully competitive with significant segments of the private sector. Major problems have been and are continuing to be experienced in recruiting and retaining sufficient numbers of qualified file clerks, clerk-typists and clerk-stenographers. We have addressed this problem by intensification of recruitment efforts at local high schools and business schools; by use of increased numbers of part-time employees and, as resources permit, by the establishment of clerical pools. Use of part-time employees will be further increased after the full-time equivalency provisions of the Part-Time Career Employment Act of 1978 (P.L. 95-437) is effective in October 1980. The above initiatives are presently being conducted under the limitations of the President's hiring policy.

Immigration Inspector Positions

Seasonal, intermittent and part-time employees are required to staff positions at the ports of entry along the Northern Border. Only individuals with eligiblity on the Professional and Administrative Career Examination (PACE) can currently be appointed to such positions. We have experienced difficulties in locating a sufficient number of PACE candidates to meet the needs of these stations, often in remote locations. In FY 1981 the Service plans to discontinue use of the PACE for these positions and to base competitive selection on a rating of the candidates' qualifications and experience without the use of examination procedures which require candidates to assemble for a written test.

Trainee Border Patrol Agent Positions

The major problem experienced by the Service in staffing trainee border patrol agent positions is the interval involved from the point when a register of eligibles is established by the Office of Personnel Management (OPM) to the point an offer of employment is made. During that time many applicants lose interest or find other employment. We are in the process of negotiating with OPM to assume maintenance of the Border Patrol Register. Once the register is established, the Service will be able to internally process all applications for border patrol agent trainees. It is anticipated that the amount of time required to complete processing of applications will be significantly reduced once the Service assumes maintenance of the register.

Administrative Services

2. *What effect has the Civil Service Reform Act of 1978 had on INS personnel management programs?*

CSRA has significantly altered personnel management policies and practices in INS. Major changes to date include:

(1) Enhancing the role of supervisors and managers as key officials on personnel matters; i.e., management planning groups have worked on (a) implementing all aspects of Senior Executive Service, (b) Merit Pay System planning; (c) Performance Appraisal System development; and (d) developing sample job elements and performance standards for eight key INS occupations and for supervisory/managerial positions below the SES level.

(2) Expanding personnel authorities in INS by (a) delegation of 28 authorities from OPM through DOJ to INS; (b) assumption of maintenance of the Border Patrol Register (tentative target date: July 1, 1980); (c) assumption of delegated staffing authorities for the immigration inspector occupation and use of an unassembled examination in lieu of the Professional and Administrative Career Examination (tentative target date: end of FY 1981); and (d) exploring feasibility of assuming further delegated authorities, such as for GS-15 (senior level) positions. The effect will be to speed up the hiring process and provide greater flexibility in recruiting minorities and females.

(3) Increasing the workload of INS supervisors and managers in the labor-management relations area due to CSRA provisions that broaden the scope of the grievance procedure and open new areas to negotiation. These two aspects of CSRA (1) increase the number, type and subject of grievances received from employees; and (2) increase the number of negotiations conducted on changes to personnel policies.

(4) Significantly increasing the personnel management workload due to (1) time necessary for development, coordination and training on new CSRA programs; (2) assumption of functions previously performed by OPM; and (3) in the case of labor-management relations, the expanded scope of the negotiated bargaining and grievance procedures.

Administrative Services

3. What is being done to improve Service forms?

As part of our long-range ADP planning effort we will be examining current forms and procedures in an effort to eliminate duplicative information, consolidate forms and generally simplify the processing function.

INS is also awaiting a report from the American Institutes for Research concerning their suggestions for the improvement of a Service form they have analyzed. The Service will use this report as a guide for improving other Service forms.

Regional Offices

1. Comment on the report submitted by the Committee on Government Operations entitled, Immigration Service Regional Offices Reflect Mismanagement, House Report No. 96-821.

The Service, in coordination with the Department of Justice, is in the process of preparing comments on this report for submission to the issuing committee. We respectfully defer our response to your request until these comments have been transmitted to Mr. Brooks.

Regional Offices

2. By regions, supply a report by positions of each regional headquarters office and the costs for maintaining the office.

The following table presents a report of Regional Headquarters current positions, both filled and vacant; and of the cost for maintenance of the offices for FY 1980. Maintenance includes personnel costs.

	Regions			
	Eastern	Northern	Southern	Western
Positions for Regional Headquarters Offices	140	109	135	155
Cost of Maintenance for Regional Headquarters Offices	$518,000	$434,000	$575,000	$539,000

Miscellaneous

1. What is "Project Baltimore" and why was it instituted?

Project Baltimore is the code name of a comprehensive, nationwide investigation of document fraud and smuggling involving Polish nationals, which has been in progress for over a year and a half. The program was instituted in response to an allegation of widespread abuse of immigration and Social Security Administration regulations by organized groups of individuals who were inducing and assisting Polish citizens to enter the United States to work in violation of nonimmigrant status. The program is being conducted by the Service, in cooperation with the Department of Health and Human Services, the United States Attorneys Office, the Department of State, the Department of Labor, the Federal Bureau of Investigation, and the Internal Revenue Service. Investigation has disclosed widespread fraud in applications for nonimmigrant visas, broad abuse of nonimmigrant visitor status, labor certification fraud, fraud in the procurement of Social Security cards, unemployment benefits, retirement benefits, and tax fraud.

Third party involvement is significant in all phases of the fraudulent activities, particularly in the preparation and submission of bogus letters of invitation and affidavits of support for nonimmigrant visas, and in the applications for Social Security cards. Investigations of attorneys, notaries, travel agents, and other third parties are currently in progress at Chicago, New York City, Hartford, Newark, and other locations. With the help of consensual monitoring devices, the program has been extremely successful in obtaining convictions against Polish nationals, travel agents, and employees of the Social Security Administration. Thus far, fourteen convictions have resulted.

Our Newark District Office was designated to act as the control office to coordinate this project on July 20, 1979. The project is continuing.

Miscellaneous

3. *What is the status of vehicle replacement for the Border Patrol?*

The Border Patrol began FY 1980 with a need for 198 replacement trucks and 221 replacement sedans (after deducting FY 1979 orders which have not as yet been delivered). We estimate that a replacement need for an additional 200 trucks and 150 sedans will be generated during FY 1980. The total FY 1980 need for 398 trucks and 371 sedans has been reduced by the ordering of 154 trucks and 266 sedans. Delivery of these vehicles, however, is not expected until late in FY 1980 or early in FY 1981.

Miscellaneous

3. *When the Office of the Special Investigator is established, how will the present structure of the Office of Professional Responsibility and Office of Performance Review be integrated organizationally into this new function? How many positions are to be alloted to the entire function? What positions will be relocated in the field? What will be the budget of the new office?*

The manner in which the Offices of Professional Responsibility and Performance Review will report to the Special Investigator is under review by top management and should be determined shortly.

Presently there are 15 authorized positions for the Office of Professional Responsibility and 16 for the Office of Performance Review. However, Congress has appropriated funds for 28 new positions in FY 1981 with an additional 28 positions in FY 1982. In addition, the Immigration and Naturalization Service is currently examining the possibility of reallocating a yet to be determined number of vacant, funded positions to the Office of Professional Responsibility.

Under the regionalization concept, approximately 80 percent of Office of Professional Responsibility positions will be located in the regions situated in New York, San Diego, San Antonio (or El Paso) and Miami.

The budget for the new office will be approximately $3 million in FY 1981. This figure does not include any positions that may be reallocated from the current budget.

APPENDIX 3

UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

FEB 26 1980

Honorable Peter W. Rodino, Jr.
Chairman, Judiciary Committee
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The Attorney General has asked me to respond to your February 19, 1980, request for a number of documents and certain information to assist the Subcommittee on Immigration, Refugees and International Law in its upcoming authorization hearings. Enclosed please find most of the materials you requested.

In response to your request for a resume of any appeals made by the Department of Justice to the Office of Management and Budget (OMB), as well as any appeals which Immigration and Naturalization Service (INS) may have made to the Department, OMB has informed us that these actions are considered an integral part of the President's internal planning process and, consequently, should not be released outside the Executive branch. OMB also stated that the Committee is welcome to direct any additional inquiries on this matter to OMB.

Regarding your inquiry that we provide you with a rationale for certain actions taken by OMB that could modify the FY 1980 total funding level available for the Immigration and Naturalization Service, I am aware only of OMB's recent approval of an FY 1980 supplemental request for $1,626,000 for the Service. Justification documents for this supplemental request have been submitted to the Judiciary Committee. I am not aware of any other recent OMB actions that would affect INS' appropriated funds for FY 1980. Should any significant modifications take place, the Department will, of course, notify the Committee in compliance with the reprogramming section of PL 96-132.

Insofar as any actions taken by the Administration for FY 1981 have an effect on the total resources available for INS in that fiscal year, these actions and their attendant rationale are reflected in supporting data to our authorization request, i.e., the Department's FY 1981 authorization submission and the FY 1981 budget summary book. These data also have been submitted to the Committee.

We thank you for your interest in these matters and we are ready to answer any additional questions you may have.

Sincerely,

Kevin D. Rooney

Kevin D. Rooney
Assistant Attorney General
for Administration

Enclosure

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
WASHINGTON, D.C. 20536

OFFICE OF THE COMMISSIONER

February 28, 1980

CO 703.785

Honorable Elizabeth Holtzman
Chairwoman, Subcommittee on
Immigration, Refugees, and International Law
Committee on the Judiciary
House of Representatives
Washington, D.C. 20515

Dear Ms. Chairwoman:

This is in response to your request of January 24, 1980 concerning the Spring Planning Submission for Fiscal Year 1981. Copies of the Fiscal Year 1981 Spring Planning Submission, OMB budget estimate, and the Departmental summary chart of the Spring Plan are being forwarded under separate cover.

In connection with the management study which the Congress directed the Department of Justice to undertake, John P. Kratzke, under the auspices of the President's Management Improvement Council, has been selected to direct the study. As you may know, the President established the President's Management Improvement Council by Executive Order 12157, on September 14, 1979. The purpose of the council is to serve as a tool for improving the management and performance of various federal agencies. The council is composed of the Directors of the Office of Management and Budget and the Office of Personnel Management. It consists of various representatives from federal agencies and state and local governments, as well as persons from the private sectors, labor organizations, and unions.

Mr. Kratzke has been meeting with various Associate Commissioners in charge of INS programs over the last three weeks. His attention is being directed first to problems of automation. I expect him to work closely with Operations Support employees, staff members of the Preyer subcommittee, General Accounting Office investigators charged with auditing this process, and Justice Management Division employees in an effort to resolve the various concerns about automation and make sound recommendations to the mutual satisfaction of all concerned as to steps to be taken in automation. Program action for what has been called the Model Office Project was placed on an indefinite hold by the Subcommittee on Privacy and Individual Rights. The subcommittee is concerned that we not move too quickly in acquiring equipment which might not have the growth potential with which to expand. The view of that subcommittee is that we should analyze our entire needs for automation, including elimination of unnecessary files, and develop a comprehensive plan rather than a piecemeal one. I have no wish to purchase equipment which would be outdated in five years. I am concerned that we move quickly in putting effective controls on our existing files system, making it workable and preparing it for automation. The hold by the Preyer subcommittee pertains only to the purchase of the equipment. Accordingly, I intend to work closely with Mr. Kratzke in addressing the immediate, drastic problem of files and records control.

The Fiscal Year 1980 Budget Amendment for automation included $1,250,000 for maintenance of the Nonimmigrant Document Control System (NIDC), and $250,000 for a study of the Nonimmigrant Document Control System and alternative systems for enforcement and control of nonimmigrants. The NIDC System is presently current. That is, the arrival documents are processed into the automated system within 30 days of the document record date and departure documents are processed into the system within 60 days of the document record date.

Processing of the documents includes the following: (1) shipment from the port of entry to the Central Office; (2) receiving, sorting, serializing, and microfilming of the documents at the Central Office; (3) delivery to the contractor for keying; (4) keying of the data onto magnetic tape and return to I&NS; and, (5) tape proofreading and entry into the system.

It is my understanding that a Special Investigator has been identified by the Attorney General and an announcement will be made shortly as to when he is expected to enter on duty. As you know, I have hired a former inspector with the New York City Police Department as the director of the Office of Professional Responsibility. Walter D. Connery has had substantial experience in matters of internal investigations in the New York Police Department. He served under Patrick Murphy and is bringing many good ideas as to how to improve our internal investigation processes. We plan to open offices in each region in order that investigators will be able to respond quickly to complaints of misconduct. In conformance with my efforts to make managers accountable for what takes place under their direction, we are asking that all managers identify potential areas of abuse in writing so as to formalize a preventive process rather than only responding to complaints. Although I am asking for a substantial supplemental funding for I&NS for Fiscal Year 1980 and an amendment to the Fiscal Year 1981 budget request, including additional investigators for the Office of Professional Responsibility, I am detailing 30 investigators to work with the Office of Professional Responsibility in clearing up existing backlogs as an interim measure.

Finally, as to the hiring schedules for the 495 additional positions provided by Congress in Fiscal Year 1980, I have attached material as you requested which reflects the allocation of those positions as originally planned and as provided.

If we can provide further information, please let us know.

Sincerely,

David Crosland
Acting Commissioner

Enclosures

ENCLOSURE A

Hiring Schedule and Geographic Distribution
495 Positions Included by Congress
in the I&NS FY 1980 Budget

Geographic Distribution

Location	Original 495		Revised 301 (Note 1)	
	Officer	Support	Officer	Support
Central Office	...	1	...	1
Detention and Deportation	...	15	...	5
Glynco Training Center	6	...	2	...
Livermore	14	2	...	...
Chula Vista	195	25	121	22
El Centro	14	4	8	6
Tucson	11	4	7	7
Yuma	17	4	10	4
Western Region Total	257	55	148	39
Marfa	5	2	3	1
Laredo	14	4	11	3
New Orleans	3	...	...	...
Miami	4	...	...	...
Del Rio	17	4	11	4
McAllen	17	3	10	3
El Paso	95	9	57	8
Southern Region Total	155	22	92	19
Management Support	...	6	...	3
	412	83	240	61

Hiring Schedule
(Officers Only, Note 2)

Class Date	Original 495	Revised 301 (Note 1)
January 7, 1980	74	71
January 28, 1980	48	48
February 18, 1980	48	45
March 17, 1980	48	...
April 1, 1980	...	2
April 7, 1980	96	48
April 28, 1980	48	...
May 5, 1980	...	26
May 26, 1980	22	...
	384 (Note 3)	240

Sequence of Changes to Border Patrol Staffing Reflected in FY 1981 Budget

		Incremental Change to President's FY 1980 Budget	Net Change to President's FY 1980 Budget
April 1979 - I&NS Requests Increase for FY 1981		122	+122
Immediate Border	101		
Other Than Border	21		
Detention	0		
May 1979 - DOJ Recommends		112	+112
Immediate Border	151		
Other Than Border	-39		
Detention	0		
July 1979 - Congressional Mark Up of FY 1980 Adds		495	+607
Immediate Border	456		
Other Than Border	24		
Detention	15		
September 1979 - I&NS FY 1981 Estimate to OMB		112	+607
Immediate Border	151		
Other Than Border	-39		
Detention	0		
November 1979 - Initial OMB Allowance for FY 1980		-359	+136
Immediate Border	-310		
Other Than Border	-39		
Detention	-10		
November 1979 - I&NS Appeal of OMB Allowance		310	+446
Immediate Border	310		
Other Than Border	0		
Detention	0		
December 1979 - Presidential Allowance for FY 1981		-209	+286
Immediate Border	-160		
Other Than Border	-39		
Detention	-10		

Note 1: The number of 301 reflects the schedule for new hires on FY 1980 as a result of OMB action on the I&NS FY 1981 request. In addition to the reduction of 194 from the 495, there will be further reduction of 15 positions through attention in the Other Than Border Program.

Note 2: All support personnel are scheduled to enter on duty between January 1, 1980 and April 1, 1980.

Note 3: 28 Border Patrol Agents were scheduled to attend training classes during the second quarter - (January - April) to backfill the positions of the personnel selected to be assigned to the Other Than Border Program and to Glynco, Georgia (FLETC).

ENCLOSURE B

Planned spending for Model Office Project, FY 1980/FY 1981.

		FY 1980	FY 1981
		(in thousands)	
	Total Personal Services and Benefits........	$947	$1,542
21.0	Travel/Training..............................	140	200
22.0	Transportation of Things.....................	175	180
23.1	Standard Level User Charges (SLUC)..........	50	50
23.2	Communications, Utilities and Other Rent....	40	50
24.0	Printing and Reproduction...................	30	30
25.0	Other Services..............................	2,859	1,642
26.0	Supplies and Materials......................	56	110
31.0	Equipment...................................	55	50
32.0	Construction................................	278	278
	Total................................	$4,630*	$4,132

*This amount consists of $329,000 of base funds for the ADP Program, $625,000 added for the project in FY 1980 in the President's Budget, $3,139,000 added in the ADP Budget Amendment for FY 1980, and $537,000 transferred to ADP from Records in support of the Model Office Project as part of the Budget Amendment for FY 1980.

Actual Obligations for the Model Office Program in first quarter of FY 1980.

Item		FY 1980 First Quarter (in thousands)
	Total Personal Services and Benefits............	$228
21.0	Travel/Training................................	29
22.0	Transportation of Things.......................	47
23.1	Standard Level User Charges (SLUC)..............	12
23.2	Communications, Utilities, and Other Rent........	9
24.0	Printing and Reproduction......................	7
25.0	Other Services.................................	4
26.0	Supplies and Materials.........................	5
31.0	Equipment......................................	6
32.0	Construction...................................	0
	Total Obligated................................	$347

APPENDIX 4

Office of the Attorney General
Washington, D.C. 20530

April 28, 1980

Honorable Elizabeth Holtzman
Chairwoman, Subcommittee on
Immigration, Refugees, and
International Law
Committee on the Judiciary
House of Representatives
Washington, D. C. 20515

Dear Congresswoman:

This is in response to your April 23, 1980 letter concerning the appointment of a Special Investigator for the Immigration and Naturalization Service.

As I think you know, I have been interviewing candidates for a number of the top positions at INS so that I might assemble a leadership team for that agency. One of the members of this team, Martin Danzinger, already has been appointed as Deputy Commissioner. I fully expect to make the other appointments imminently.

I understand and share your concerns about INS. When the new officials are soon in place, I hope we will all be able to work together to address and resolve some of these issues.

Sincerely,

B Civiletti

Benjamin R. Civiletti
Attorney General

NINETY-SIXTH CONGRESS

SUBCOMMITTEE ON IMMIGRATION, REFUGEES, AND INTERNATIONAL LAW

ELIZABETH HOLTZMAN, N.Y., CHAIRWOMAN

Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

April 23, 1980

Honorable Benjamin R. Civiletti
Attorney General
Department of Justice
Washington, D.C. 20530

Dear Mr. Attorney General:

As you are aware, I have been extremely concerned for some time by the inordinate delay in appointing a Special Investigator for the Immigration and Naturalization Service. The position remains vacant despite the fact that the Office of Special Investigator was created pursuant to my amendment in last year's Department of Justice Authorization Bill (P.L. 96-132), which was signed into law nearly five months ago.

Because of the importance of this office to the integrity of the Immigration Service and because of mounting public criticism of INS triggered by a series in the New York Times detailing numerous alleged abuses, I wrote to you on January 17 asking you to expedite the appointment of a Special Investigator. Nonetheless, although you assured me privately in a telephone conversation in February that an appointment was imminent, and although in testimony before the Judiciary Committee on March 6 you stated that the selection of a candidate would be announced "during the week of March 17," no appointment has been forthcoming.

The problems my Subcommittee identified at INS and sought to resolve last year through the creation of the Office of Special Investigator and other important amendments still remain. I believe it is imperative that the Department of Justice do everything in its power to cooperate with the Congress in addressing these problems. To that end, I once again urge you to appoint a Special Investigator immediately; no further time should pass before you carry out this Congressional mandate.

I look forward to your prompt response.

Sincerely,

Elizabeth Holtzman
Chairwoman

EH:jsb

U.S. Department of Justice

Office of the Associate Attorney General

Washington, D.C. 20530

March 6, 1980

The Honorable Elizabeth Holtzman
Chairwoman, Subcommittee on Immigration,
Refugees and International Law
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman Holtzman:

The Attorney General has asked that I respond to your letter of January 17, 1980, regarding the problems of the Immigration and Naturalization Service (INS) and the steps being taken to address them.

We are deeply concerned about the specific allegations and the underlying issues raised by those allegations that are outlined in the recent New York Times series. Your Subcommittee and the Congress have recognized and addressed them by providing for the appointment of a Special Investigator for INS. This appointment is an important one and all aspects of it are being handled personally by the Attorney General for that reason. We expect to announce the appointment and the configuration of the office and activities the Special Investigator will oversee in the near future.

In addition to the Special Investigator provision, the Department is making progress with the other INS authorization actions taken by Congress in response to your leadership and that of the Subcommittee.

The management analysis is, at the Attorney General's request, being performed under the auspices of the President's Management Improvement Council. The Council has arranged for the services of John Kratzke, formerly Assistant Managing Director, Interstate Commerce Commission, to serve as Project Director. Mr. Kratzke is well-suited for this effort in that he has been responsible for his agency's budget, the complete overhaul of its information systems program, administrative services and procurement, and personnel management.

In establishing the management analysis, we gave careful consideration to the question whether to contract with a non-government entity or obtain independent expertise from elsewhere in the government. We chose the latter as the more suitable resource because we seek and we believe Congress seeks, results which can occur only by cutting through a range of uniquely governmental roadblocks that plague INS in the areas of procurement, personnel management, reprogramming, and budget planning and execution, to name a few. Federal agency management experience was, in our view, a central requirement.

Mr. Kratzke is presently concluding a series of initial interviews with pertinent individuals in INS, the Executive Branch and Congress including members of the Subcommittee staff. The first phase of the project effort is directed at the question of INS information systems, particularly the remaining items of the FY 80 authorization action regarding INS, i.e., funds for automating INS record-keeping and the design of an effective non-immigrant control system.

Although some progress in implementing these programs has been made, I am not satisfied with the status of these initiatives and have therefore directed they be treated as priority areas of inquiry for the management analysis.

The management project reports to a Steering Group which I chair. Action will be taken as the project proceeds; we will not await a final report to proceed with implementation of findings and recommendation. Thus it will be a problem-solving as well as an analytic undertaking. Outside contractors will be used for discrete areas of inquiry and sufficient resources will be made available for that purpose.

We have welcomed your leadership and the assistance of the Subcommittee in meeting the complex and vexing problems of the Immigration and Naturalization Service. The Attorney General and I are optimistic about the potential for improvement of INS activities and reform of the agency. We intend to work closely with you and the Judiciary Committees in this enterprise and appreciate your continuing interest and support.

Sincerely,

John H. Shenefield
Associate Attorney General

NINETY-SIXTH CONGRESS

SUBCOMMITTEE ON IMMIGRATION, REFUGEES, AND INTERNATIONAL LAW

ELIZABETH HOLTZMAN, N.Y., CHAIRWOMAN
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Committee on the Judiciary
U.S. House of Representatives
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JAMES J. SCHWEITZER, COUNSEL
ALEXANDER B. COOK, ASSOCIATE COUNSEL
[illegible], LEGISLATIVE ANALYST

INS oversight

January 17, 1980

Honorable Benjamin Civiletti
Attorney General
Department of Justice
Washington, D.C.

Dear Mr. Attorney General:

I am writing with regard to the continuing problems confronting the Immigration and Naturalization Service and the efforts recently taken by the Congress to respond to this serious situation.

The articles which appeared in the New York Times this week clearly demonstrate the need for immediate action to curtail abuses and improprieties in that agency. In view of the severity of the allegations contained in the articles and mounting public criticism of INS, I urge you to appoint a Special Investigator for the agency immediately.

As you know, seven weeks have passed since Congress, following the recommendation of my Subcommittee on Immigration, Refugees and International Law, mandated the creation of such an office. No further time should elapse in satisfying this Congressional mandate.

Since assuming the Chair of the Subcommittee, I have been deeply concerned by the allegations of fraud, mismanagement and lack of professionalism in this most important "service" agency. Repeated suggestions of fraud have raised questions about the agency's enforcement policies, and consistent backlogs have made acceptable service to the public an impossibility. Undoubtedly as well, personnel shortages, inadequate utilization of existing technology and misplaced priorities have contributed greatly to the declining morale in INS.

As I have noted, the Congress recently took decisive action to minimize the persistent problems of inefficiency and corruption within the Service. On November 30, 1979, President Carter signed into law various provisions which I authored in the Department of Justice Authorization Bill (Public Law 96-132) which (1) created the Office of Special Investigator to investigate mismanagement, corruption and inefficiency in INS; (2) provided increased funds for automating INS record-keeping to eliminate backlogs; (3) required an independent management analysis of all INS operations; and (4) provided funds to update and re-design an effective nonimmigrant control system to keep track of students and other nonimmigrants entering the country.

I commend the Department of Justice for its recent announcement in which it "welcomes and appreciates" the efforts of the New York Times and its investigative news reports concerning various allegations of improprieties within the Service, as well as the Department's statement that it is "already in the process of taking what it hopes will be remedial action."

In view of these statements and the urgency of the situation, I would respectfully request a report on the actions contemplated by the Department and I renew my request for the immediate implementation of P.L. 96-132, especially with regard to the provision calling for a Special Investigator.

Sincerely,

Elizabeth Holtz

Elizabeth Holtzman
Chairwoman

EH:ser